

## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

<b>Date of Meeting</b>	31 October 2018
<b>Application Number</b>	18/08151/FUL
<b>Site Address</b>	Dahl Al Misfir, Park Lane, Ford, Chippenham, Wiltshire, SN14 8RN
<b>Proposal</b>	Install a 4.4m x 2.4m swim spa in the rear garden of the residence, Dahl Al Misfir. The spa will be part sunken with decking around.
<b>Applicant</b>	Mr John Worsnop
<b>Town/Parish Council</b>	NORTH WRAXALL
<b>Electoral Division</b>	BY BROOK – Councillor Baroness Scott of Bybrook OBE
<b>Grid Ref</b>	384246 174931
<b>Type of Application</b>	Full Planning
<b>Case Officer</b>	Catherine Jackson

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

The application has been called to Committee by the Local Member, Councillor Baroness Scott of Bybrook OBE, in order to enable members to consider the scale of the proposal and its impact upon the natural beauty of the area.

#### **1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

#### **2. Report Summary**

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

- The principle of the development.
- The impact of the proposal on the character and appearance of the application site and the surrounding Cotswolds Area of Outstanding Natural Beauty.
- The impact of the proposal on the character and appearance of the Long Dean-Ford-Slaughterford Conservation Area and on the setting of the nearby listed buildings.
- The impact of the proposal on the residential amenities of surrounding properties.

An objection has been received from the North Wraxall Parish Council. In addition, six representations from members of the public have been received; five objections and one in support of the proposal.

#### **3. Site Description**

The application site relates to the rear garden associated with Dahl Al Misfir, which is located on the eastern side of Park Lane in Ford.

The site is situated within the Cotswolds Area of Outstanding Natural Beauty (AONB) and the Long Dean-Ford-Slaughterford Conservation Area. A number of Grade II listed buildings are also located within the vicinity of the site.

#### 4. Planning History

N/02/01980/FUL	Erection of Dwelling	Refused November 2002
N/02/02096/CAC	Demolition of Outbuilding Stable/Garage	Approved November 2002
N/04/01267/FUL	Erection of Single Storey Part Underground Dwelling and Internal Garage	Allowed at Appeal
N/10/01614/FUL	Lay Geothermal Pipes 1 Metre Below Ground in Field Adjacent to Church Farm House	Approved August 2010
17/01623/FUL	Erection of building for equipment and tractor storage	Approved June 2017
17/00559/ENF	Allegation Of Unauthorised Development and Unauthorised Change of Use of Land	No Breach Of Planning Control

#### 5. The Proposal

This application seeks permission for the installation of a swim spa and decking in the rear garden of Dahl Al Misfir. The spa would be part sunken into the natural slope of the land and surrounded by timber decking.

The swim spa would measure approximately 4.4 metres in length and 2.4 metres in width. It is of moulded fibreglass construction and has an insulated safety hard cover when not in use.

The swim spa would be used by the applicants throughout the year to maintain fitness.

#### 6. Local Planning Policy

National Planning Policy Framework (NPPF):

Paragraph 11;

Section 4, Paragraphs 38, 47 and 55

Section 15, Paragraphs 170 and 172

Section 16, Paragraphs 192 and 200

Wiltshire Core Strategy (WCS):

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 67 – Flood Risk

#### 7. Summary of consultation responses

Wiltshire Council Conservation:

No objections subject to the colour and finish of the pool cover and the colour and finish of the decking.

Wiltshire Council Drainage:

No objections.

North Wraxall Parish Council:

Concerns regarding the overdevelopment of the site and impact on AONB.

## **8. Publicity**

The application was advertised by site notice and direct neighbour notification letter. Five letters of objection were received and are summarised as follows:

- Inappropriate development within a Conservation Area and an AONB.
- The scale and design of the proposal would be out of character with the environment and is inappropriate within a rural setting.
- Inappropriate siting as the proposal would be prominent from Park Lane, a popular footpath.
- A condition imposed by the Planning Inspector when granting planning permission for the dwelling known as Dahl Al Misfir, located on the adjacent site, restricts the development of garages, extensions or other structures.
- The proposal would result in unacceptable noise levels, both from the swim spa's pump system and from its users.

One letter of support was received and is summarised as follows:

- There would be no impact on the visual amenity of the surrounding area or on the amenity of the neighbouring properties.

## **9. Planning Considerations**

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.

Principle:

The principle of the proposal is acceptable. The application seeks to carry out works within the garden area of a residential property, which are ancillary to the use of the dwelling. Core Policies 57 and 58 are permissive of the proposals subject to a range of criteria and site specific impact assessment and these matters are addressed further under issue specific headings below.

The Appeal decision referred to in the neighbour objections included a condition removing permitted development rights for the erection of garages, extensions or other structures. The removal of permitted development rights does not mean no development is allowed, it means that a planning application is required for the development. This effectively allows the Council the opportunity to consider the impacts of new development proposals in full. As such, these types of conditions are not a total prohibition on any future development.

Character and Appearance:

The proposed swim spa and decking would be contained in a residential garden and within close proximity to the residential dwelling of which they are associated. In addition, the proposal would be low in height and is not considered to be overly prominent. For these reasons, it is considered that the proposal does not have any unacceptable impacts upon the character and appearance and visual amenity of the application site or surrounding area.

AONB:

The proposal is located within the Cotswolds AONB; consequently, there is a requirement to ensure that the development does not have a detrimental impact on the natural beauty of the

landscape. As the proposal is well contained within the application site, is positioned in close proximity to the setting of existing built form and is of a form and character appropriate to the residential context of the site it is considered that it would have acceptable impacts upon the natural beauty of the wider area. In addition, the proposal does not incorporate any external lighting that may adversely impact upon the landscape.

#### Heritage Assets:

Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Listed Building or Conservation Area to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The proposal is located within the Long Dean-Ford-Slaughterford Conservation Area, however would not form a prominent or visible feature within it. As such, the proposal would not result in harm to the character and appearance of the Conservation Area.

The proposal would be located in the vicinity of a number of Grade II listed buildings. As such, a material consideration in the determination is the impact of the proposal on the setting of these listed buildings. The proposal would be positioned an adequate distance away from the listed buildings to ensure their settings would not be adversely impacted upon. In addition, views to and from the listed buildings would not feature the proposal prominently due to it being part sunken into the ground and of a limited scale and nature. Overall, the scale and design of the proposal, as well as the degree of separation from the listed buildings would ensure that the setting of the listed buildings is preserved, according with Core Policies 57 and 58.

The Council's Conservation Officer has requested that the lining and cover of the swim spa be as dark as possible and that the finish to the decking is agreed prior to its application. Conditions relating to colours and finishes can be applied should planning permission be granted and are recommended below.

#### Residential Amenity:

The proposal would not result in any significant additional levels of overlooking and would not result in any loss of light nor would it have an overbearing impact on neighbouring properties.

Concerns have been raised by the nearby residents that the proposal would result in unacceptable levels of noise caused by the pump system of the swim spa as well as by its users. It is acknowledged that the pump system would cause some noise, however this is not considered to be to a degree that would warrant the refusal of the application. The Applicant has submitted further details from the supplier which indicate that with only the filtration pump running, at approximately one metre away, 41dB would be emitted (similar to a standard fridge-freezer) and with all pumps running, 61.8dB would be emitted (similar to loud talking or a car engine).

Furthermore, it is not considered that the siting of the swim spa would necessarily result in the Applicants creating excess noise, or for that matter, additional noise than what is currently created through the normal enjoyment of the residential garden. It is to be expected that some noise is going to occur in a residential garden. It should be noted that the application site and adjacent residential properties are all detached and feature generous plot sizes. Consequently the proposed development is set some distance from neighbouring properties. Also the application site is separated from some of the adjacent neighbouring properties by the access road Park Lane, which itself is a noise generator establishing some

level of ambient noise. It should also be borne in mind that the use of the swim spa will not be constant and activity and related noise generation would therefore be relatively limited. The additional noise levels are therefore not considered such that consent ought to be refused on this basis.

Overall, the impact of the proposal on the residential amenities of the neighbouring properties is regarded as acceptable.

## **10. Conclusion**

It is considered that the proposed development is in accordance with the development plan. The development is considered to be acceptable on its planning merits and does not result in significant harm to interests of acknowledged importance. Having regard to all other matters raised it is recommended that planning permission be GRANTED.

### **RECOMMENDATION:**

**That planning permission is GRANTED, 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 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan, Layout Plan, Section and Swim Spa Specifications; all dated 24 August 2018.

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

- 3 No paint or stain finish shall be applied to external timber until details of the paint or stain to be applied 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: In the interests of visual amenity and the character and appearance of the area.

- 4 The shell of the Swim Spa shall be 'Quartz Mist' in colour and it shall have a dark grey cover.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 5 **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.

6           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.

7           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.

8           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.