

**Item No 09:-**

**16/01509/FUL (CD.9547)**

**Land South West of Firs Farm  
Todenham  
Gloucestershire**

## Item No 09:-

**Erection of a single storey dwelling at Land South West Of Firs Farm Todenham Gloucestershire**

<b>Full Application 16/01509/FUL (CD.9547)</b>	
<b>Applicant:</b>	Mr & Mrs Charles Duckett
<b>Agent:</b>	LPC (Trull) Ltd
<b>Case Officer:</b>	Martin Perks
<b>Ward Member(s):</b>	Councillor Robert Dutton
<b>Committee Date:</b>	10th August 2016
<b>RECOMMENDATION:</b>	<b>REFUSE</b>

**Main Issues:**

- (a) Residential Development Outside a Development Boundary and Emerging Local Plan
- (b) Sustainability of Location
- (c) Impact on Setting of Heritage Assets
- (d) Impact on Character and Appearance of Moreton-in-Marsh Surrounds Special Landscape Area
- (e) Other issues

**Reasons for Referral:**

This application has been referred to Planning and Licensing Committee at the request of Cllr Dutton who has stated the following;

'I have inspected the site and am of the view that this bungalow would have minimal impact on the setting of Firs Farm next door (a listed building) and, given how it will be 'tucked away out of view' have no impact on the listed church which is some distance away; it won't obstruct or impede on any views of the church (which can be seen from the proposed entrance to the site).

I find the justification for this application to be compelling (including the medical evidence) particularly as it is overwhelmingly supported by the local community.'

**1. Site Description:**

This application relates to a parcel of agricultural land located within Moreton-in-Marsh Surrounds Special Landscape Area (SLA). The site measures approximately 800m in size and is L-shape in form. The site extends for approximately 53m alongside the main road leading through the village. The proposed dwelling will be located towards the northern end of the site and will lie in a roughly square plot measuring 23m by 24m in size. The dwelling will be served by an access drive measuring approximately 30m long by 6m wide. The access drive will run parallel with the adjacent road. Vehicular access to the proposed development will be via an existing field access which is located at the southern end of the site.

The application site borders a residential dwelling to the north, a road to the west and fields to the south and east. A native species hedgerow separates the site from the road.

The site is located outside a Development Boundary as designated in the Cotswold District Local Plan 2001-2011.

The site is located outside Todenham Conservation Area (CA). The aforementioned CA is split into northern and southern sections with a gap of approximately 180m between the two. The application site lies in the gap between the two parts of the CA. The southern edge of the application site lies approximately 35m to the north of the southern part of the CA. The northern edge of the site lies approximately 85m from the northern part of the CA.

The northern boundary of the application site adjoins a Grade II Listed Building called Firs Farm.

The application site lies approximately 225m to the south west of the Church of St Thomas of Canterbury which is designated as a Grade I Listed Building.

A Public Right of Way (HT09) extends in an east west direction approximately 30m to the south of the application site. Views of the site are also available from Right of Way (HT08) which extends in a north south direction to the south of footpath HT09.

## **2. Relevant Planning History:**

None

## **3. Planning Policies:**

NPPF National Planning Policy Framework  
 LPR08 Special landscape Areas  
 LPR09 Biodiversity, Geology and Geomorphology  
 LPR19 Develop outside Development Boundaries  
 LPR38 Accessibility to & within New Develop  
 LPR39 Parking Provision  
 LPR42 Cotswold Design Code  
 LPR45 Landscaping in New Development  
 LPR46 Privacy & Gardens in Residential Deve

## **4. Observations of Consultees:**

Historic England: See attached response

Conservation Officer: Views incorporated in report

## **5. View of Town/Parish Council:**

Support application

## **6. Other Representations:**

16 letters of support and 2 letters of objection received.

Main grounds of support are;

i) The applicant has lived in Todenham all his life and is the senior member of a highly respected farming family. The family has contributed to the community over generations providing vital help to the Parish Council, Village Hall and many regular celebrations. They have been very generous in accommodating village events and have been tremendous guardians of the land around the Parish which they farm. The applicant and his wife are now needing to step back to some degree from full time farming but are still involved day to day and hence need to stay within the community that they have been part of for so long. The current farmhouse is too large and totally inappropriate for the applicant considering Mrs Duckett's limited mobility. It is hence unsustainable for their continued occupation. Policy explicitly supports the continuity of viable farming within rural communities. In order to sustain the Cotswolds as we know and love planning

must consider and support adequate housing for local people. The proposal is small scale, unobtrusive and wholly in keeping with the surroundings. It has no environmental detriment and re-uses a former brownfield site with great sensitivity. Planning in rural communities must be seen to support the long term well-being of village settlements and provide for local families to have decent homes fit for now and the future.

- ii) Due to Mrs Duckett's illness and the impact that it is having on her mobility it is imperative that the family move to a single storey dwelling as soon as possible.
- iii) The proposed dwelling would be built on the family's own land and in our view it would make perfect sense for the scheme to be allowed to proceed.
- iv) Notwithstanding the general planning considerations a village must be able to evolve and adapt its profile and its physical infrastructure to meet the needs of those who live and work within its boundaries.
- v) The plot will no doubt be developed sympathetically and in keeping with the overall visual context of the adjoining area.
- vi) Support planning application, not least because it is a bungalow, a type of housing much needed for ageing rural communities. As a bungalow I believe it will have very little effect on the landscape and should be supported and encouraged.
- vii) It is within or on the edge of the village in a suitable location and the design and materials to be used make it appropriate.
- viii) I was amazed to read the comments added with regard to the view of the church being spoiled by this development. Driving down the village from the south west the majority of the time the church is hidden by existing buildings and mature trees and hedges and should the applicant choose to allow their boundary hedge to grow much higher there would be no view across the development site either. On foot the view would only be seen at a few places along the footpath and in a couple of gateways. The best way to view the church from that direction is to use the cross field footpath running just southwest of the development site and from which there would be no interruption of view.
- ix) The village has very few properties suitable for the less able/elderly. The applicants are long term residents with multiple generations of their family living in the village who have continually made a major contribution to the community, parish council, village hall, royal celebrations, fete and providing land for parking and hosting of events and are now in need of support from the village.
- x) Planning considerations for villages such as ours should surely have leeway for exceptions to allow a village to evolve to meet the needs of those who live and work within its area especially where there is a lack of available and suitable housing and this should be a significant factor in allowing an application when it is clearly for the genuine needs of the committed local residents.
- xi) With regard to the proximity of the Listed Building, planning gave permission to the much larger development which was built directly opposite said Listed Building in full face of its main windows and sited higher on the skyline.

**Main grounds of objection are:**

- i) Note that the development does not accord with the provisions of the development plan in force in the area the application site is located. The land between the two ends of Todenham has always been rejected by CDC for development. If permission is granted for this proposal then surely other proposals in the village cannot be rejected. I have every sympathy for the applicant's needs but planning rules must be paramount.
- ii) I am an immediate neighbour and have concerns about the new bungalow. The new bungalow is too close to my house and I would like it moved further away. I am also very concerned that there is no proposed landscaping scheme to mitigate how near the new development will be. No weight should be given to the former farm building on the site. There has been no building on this site for at least 12 years and the proposal should be treated as development of a greenfield site.
- iii) The site is within a Special Landscape Area where Local Plan Policy 8 permits some specific development provided that it does not unacceptably harm the area's landscape character or appearance. Emerging Local Plan Policy EN2 permits development where it does not have a significant detrimental impact on the natural and historic landscape. Proposals will be expected to

enhance, restore and better manage the natural and historic landscape and any significant landscape features and elements including key views, settlement patterns and heritage assets.

iv) A public footpath runs through the adjacent land, parallel to the boundary. There would therefore be public views of the dwelling not just from the road but from the footpath also.

v) The proposed dwelling has been placed on the highest land along the frontage of the site at the furthest point from the proposed point of access and on the land closest to substantial mature trees within the garden of Firs Farm. In doing so the prominence of the proposed building is increased and the construction works could potentially affect the root protection areas of the adjacent trees.

vi) In accordance with the relevant 1990 Act and the Framework harm to the setting of the heritage asset must be afforded substantial weight in the planning balance. The proposed position of the dwelling would result in harm to the setting of the adjacent Grade II Listed Building Firs Farm.

vii) Whilst there are currently mature trees and hedges along the boundaries which would restrict views of the dwelling, these cannot be used as a means to justify that the impact of the dwelling would be acceptable. There is no means in development management to secure the retention of these hedges and trees outside a Conservation Area that are not subject to a TPO. If the hedges/trees were to be removed the dwelling, on the highest land, within the setting of a Listed Building, would be completely exposed and would result in significant harm to the heritage asset and to the character and appearance of the landscape.

## **7. Applicant's Supporting Information:**

Ecological Appraisal  
Planning, Design and Access Statement

## **8. Officer's Assessment:**

### **Proposed Development**

The application is seeking full planning permission to erect a single storey dwelling on the site. The land is currently used for agricultural purposes. At the time of the Officer site visit the land was being grazed by sheep.

The proposed dwelling will contain two bedrooms and will have a maximum height of approximately 5.6m. The external walls of the proposed building will be constructed in a mix of natural stone and timber boarding. Plain tiles will be used for the roof. Windows are shown as being painted timber.

Vehicular access will be via an existing field access located at the southern end of the application site.

### **(a) Residential Development Outside a Development Boundary and Emerging Local Plan**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.' The starting point for the determination of this application is therefore the current development plan for the District which is the Cotswold District Local Plan 2001-2011.

The application site is located outside a Development Boundary as designated in the aforementioned Local Plan. Development on the site is therefore primarily subject to Policy 19: Development Outside Development Boundaries of the current Local Plan. Criterion (a) of Policy 19 has a general presumption against the erection of new build open market housing (other than that which would help to meet the social and economic needs of those living in rural areas) in locations outside designated Development Boundaries. The provision of the open market dwelling proposed in this instance would therefore typically contravene the guidelines set out in Policy 19. Notwithstanding this, the Council must also have regard to other material considerations when

reaching its decision. In particular, it is necessary to have regard to guidance and policies in the National Planning Policy Framework (NPPF). Paragraph 2 of the NPPF states that the Framework 'is a material consideration in planning decisions.'

The NPPF has at its heart a 'presumption in favour of sustainable development'. It states that 'there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles'. These are an economic role whereby it supports growth and innovation and contributes to a strong, responsive and competitive economy. The second role is a social one where it supports 'strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations'. The third role is an environmental one where it contributes to protecting and enhancing the natural, built and historic environment.

Paragraph 8 of the NPPF states that the three 'roles should not be undertaken in isolation, because they are mutually dependent'. It goes on to state that the 'planning system should play an active role in guiding development to sustainable solutions.'

Paragraph 47 of the NPPF states that Councils should identify a supply of deliverable sites sufficient to provide five years' worth of housing. It also advises that an additional buffer of 5% or 20% should be added to the five year supply 'to ensure choice and competition in the market for land'. In instances when the Council cannot demonstrate a five year supply of deliverable housing sites Paragraph 49 states that the 'relevant policies for the supply of housing should not be considered up-to-date'.

In instances where the development plan is absent, silent or relevant policies are out-of-date the Council has to have regard to Paragraph 14 of the NPPF which states that planning permission should be granted unless;

- ' - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.'

The land supply position has recently been considered at two Public Inquiries. The Inquiries in question relate to proposals to erect up to 90 dwellings on Land to the east of Broad Marston Road, Mickleton (APP/F1610/A/14/2228762, CDC Ref 14/02365/OUT) and up to 71 dwellings on land to the south of Collin Lane, Willersey (APP/F1610/W/15/3121622, CDC Ref 14/04854/OUT).

In relation to the Mickleton decision the Planning Inspector stated 'I consider that a 5-year supply of deliverable housing land is demonstrated.' He stated 'the agreed supply of housing would be sufficient to satisfy the 'objectively assessed housing need' of 380dpa over almost the next 9 years'. The Inspector also stated that he considered that the Council was no longer a persistent under deliverer of housing and that 'it is thus inappropriate to apply the 20% buffer now.' In the case of the Willersey application the Inspector agreed that a 5% buffer was appropriate and that the 'LPA can reasonably show a 7.63 year supply of deliverable housing land.'

Since the issuing of the above appeal decisions the Council has also reviewed the Objectively Assessed Need (OAN) for housing in Cotswold District. The review indicates an increase in the housing requirement for the District from 7,600 to 8,400 dwellings over the period of the emerging Local Plan (2011-2031). In order to meet this additional requirement the Council will need to increase supply from 380 to 420 dwellings per annum. Whilst this increase has an impact on the Council's 5 year supply recent completion rates have been in excess of the 420dpa figure meaning that the Council can still demonstrate a supply of 7.54 years (May 2016). It is therefore considered that the Council can demonstrate a robust 5 year supply of deliverable housing land in accordance with Paragraph 49 of the NPPF. In such circumstances Officers consider that the adopted Local Plan policies that cover the supply of housing (eg Policy 19) are not automatically out of date in the context of Paragraph 49. Notwithstanding this, it does remain pertinent for a decision maker to consider what weight should be attributed to individual Local Plan policies in

accordance with Paragraph 215 of the NPPF. Paragraph 215 states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the framework, the greater the weight they can be given)'. There will therefore be instances where new open market housing outside existing Development Boundaries can constitute sustainable development as required by the NPPF. The blanket ban on new open market housing outside such boundaries is therefore considered to carry little or no weight when assessed against Paragraph 215. In the Mickleton appeal previously referred to the Inspector considered that Policy 19 was 'time-expired, conforms to a superseded strategy, fails to reflect the advice in the Framework (NPPF) in severely restricting rather than significantly boosting the supply of housing and conflicts with the emerging strategy.' He considered that Policy 19 'can only be regarded as out of date.' The Inspector in the Willersey case reached the same conclusion. In light of these opinions Officers consider that Policy 19 is out of date in the context of the NPPF and as such the tests set out in Paragraph 14 are applicable when determining this application.

In addition to the above, it must also be noted that even if the Council can demonstrate the requisite minimum supply of housing land it does not in itself mean that proposals for residential development outside existing Development Boundaries should automatically be refused. The 5 year (plus 5%) figure is a minimum not a maximum and as such the Council should continually be seeking to ensure that housing land supply stays above this minimum in the future. As a result there will continue to be a need to release suitable sites outside Development Boundaries identified in the current Local Plan for residential development. It is considered that the need to release such sites represents a material consideration that must be taken into fully into account during the decision making process.

The final emerging Local Plan consultation paper (Cotswold District Local Plan 2011-2031: Submission Draft Reg 19 June 2016) is currently subject to public consultation. The following draft policy provides an indication of the new Local Plan's approach to new residential development outside the 17 proposed key settlements.

### Policy DS3 RESIDENTIAL DEVELOPMENT OUTSIDE THE PRINCIPAL SETTLEMENTS

1. Outside the Development Boundaries of Principal Settlements, small-scale residential development will be permitted provided it:
  - (a) is within or adjacent to a rural settlement;
  - (b) is of a proportionate scale and maintains and enhances sustainable patterns of development;
  - (c) complements the form and character of the settlement;
  - (d) does not have an adverse cumulative impact on the settlement having regard to other developments permitted during the Local Plan period; and
  - (e) demonstrably supports or enhances the vitality of the local community and the continued availability of services and facilities locally.
2. Applicants proposing two or more residential units on sites outside Development Boundaries should complete a rural housing pro-forma and submit this with the planning application.

The above draft policy may be subject to change as a result of the current consultation process and as a result carries minimal weight at the present time.

Overall, and notwithstanding the current land supply figures it is necessary to have full regard to the economic, social and environmental roles set out in the NPPF when assessing this application. These issues will be looked at in more detail in the following sections.

#### **(b) Sustainability of Location**

Todenham is not designated as a Principal Settlement in the current Local Plan. In addition, it is not identified in emerging Local Plan documents (Cotswold District Local Plan 2011-2031: Submission Draft Reg 19 June 2016) as a settlement that has sufficient facilities and services to accommodate new open market residential development in the period up until 2031. The village has therefore not been identified as a location where new open market residential development

would be acceptable in principle. The village has a church, public house and village hall. It does not have any shops, schools, healthcare or other facilities. Public transport services are limited to a single return bus trip to Moreton-in-Marsh and Chipping Norton on a Wednesday and single return trips to Shipston on Stour on a Tuesday and Friday.

The sustainability of the village for new residential development was considered during an appeal for a single dwelling in the settlement in 2002 (CDC Ref CD4063/G -see attached). In dismissing the appeal the Planning Inspector stated that Todenham was 'a settlement where communal facilities are limited to a church, village hall and a public house. The nearest shops and schools are located at least 3 miles away in Moreton-in-Marsh with access to that town being along a derestricted rural road lacking footpaths and street lighting. This road runs into the heavily used A429 just outside Moreton-in-Marsh. Although Todenham lies on a bus route the frequency of buses is extremely limited as they only run once each way on Wednesdays, Thursdays and Fridays. Given these findings it therefore seems reasonable to accept that occupants of the new house would be so heavily reliant on the use of the private motor vehicle that the proposal can reasonably be assumed to represent unacceptable, unsustainable development.'

It is noted that the appeal decision dates from 2002. However, it is considered that the concerns raised by the Inspector are still pertinent today. The level of facilities and services on offer in the village has not changed since the appeal decision and the Inspector's reasoning still accords with the principles of sustainable development set out in the NPPF. It is considered that the Inspector's concerns still carry significant weight at the present time. It is noted that the proposed dwelling is intended for occupation by people who already live in the village. However, the proposed dwelling will be a permanent addition to the village and will not just be in place for the lifetime of the applicants. The proposed development is for an unrestricted dwelling that could be occupied in the future by parties currently unconnected to the village. The Council has therefore to look beyond the current wishes of the applicant when considering this application. It would also be inappropriate to limit the benefits of the planning permission to the applicant.

'Paragraph: 015 of the Government's Planning Practice Guidance states;

'Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?

Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship.'

Given the limited amount of services and facilities on offer in the village it is considered that future residents of the proposed dwelling would be reliant on the use of the private motor car to undertake most day to day activities. The site is therefore considered to represent an isolated location in terms of its accessibility to services and facilities. The proposed scheme would therefore result in a material increase in car borne commuting to and from the site which would conflict with Paragraphs 17 and 35 of the NPPF which seek to reduce carbon emissions and direct development to locations that have access to high quality public transport facilities.

It is evident that the ability of Todenham to accommodate new residential development has been assessed as part of the emerging Local Plan process. It has been found to lack the necessary services and facilities to constitute a sustainable location for new open market housing. In light of



the very limited level of facilities available in the village and in the surrounding area it is considered that the site represents an unsustainable location for the proposed development in terms of its accessibility to services, facilities and amenities.

### **(c) Impact on Setting of Heritage Assets**

The northern boundary of the application site adjoins the grounds of a Grade II Listed Building (Firs Farm). The Grade I Listed Church of St Thomas of Canterbury is located approximately 225m to the north east of the site. The site also occupies a parcel of land located between the northern and southern halves of Todenham Conservation Area.

Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

With respect to any buildings or other land in a conservation area Section 72(1) of the aforementioned legislation states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 132 of the NPPF states that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.'

Paragraph 134 states that '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, including securing its optimum viable use.'

Cotswold District Local Plan Policy 15 states that construction 'within or affecting a Conservation Area must preserve or enhance the character or appearance of the area as a whole, or any part of the designated area.'

Paragraph 009 of the Planning Practice Guidance (PPG) states that 'heritage assets may be affected by direct physical change or by change in their setting.'

Paragraph 013 of the PPG states 'Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.'

Paragraph 2 of Policy 15 states that development will be permitted unless;

- (a) They result in the demolition or partial demolition of a wall, structure or building, or the replacement of doors, windows or roofing materials, which make a positive contribution to the character or appearance of the Area;
- (b) the siting, scale, form, proportions, design, colour and materials of any new or altered buildings, are out of keeping with the special character or appearance of the Conservation Area in general, or the particular location; or
- (c) they would result in the loss of open spaces, including garden areas and village greens, which by their openness make a valuable contribution to the character or appearance, or allow important views into or out of the Conservation Area.

The existing site has a very rural, agricultural character that makes a positive contribution to the character and appearance of this part of the village and the setting of Firs Farm, the Church of St Thomas and the conservation area. It reinforces the rural qualities of the settlement and contributes positively to the soft rolling pastureland that lies between the northern and southern

halves of the village. Both the application site and adjacent land provide an attractive foreground to the northern part of the settlement and in particular the Grade I Church of St Thomas. This is especially evident when viewed from the adjacent Public Rights of Way and highway located to the south and south west. In contrast, the proposed scheme would result in the encroachment of urban development into the agricultural landscape thereby diminishing the agricultural character of the existing site which currently contributes positively to the setting of the heritage assets. The relationship of the heritage assets with the surrounding agricultural landscape is fundamental to their setting. The loss of part of the agricultural land that currently contributes so positively to the setting of the heritage assets would lead to a diminution in their character. It is noted that the proposed building is single storey. However, it will lie in an elevated part of the site and will be served by a 30m long drive and incorporate a garden area. The proposed dwelling would be visible from the road and from nearby Public Rights of Way. It will therefore represent a very noticeable extension of built development into the agricultural landscape.

In the context of Paragraph 134 of the NPPF it is considered that the proposal will have less than substantial harm on the setting of Firs Farm, the Church of St Thomas and Todenham Conservation Area. Such harm must be given considerable weight and importance when considering the application. The harm must be weighed against the public benefits of the proposal. In this instance the only public benefit arising from the proposal is the creation of a single dwelling. Whilst the proposal will contribute to the Council's need to provide an ongoing supply of housing land it is also noted that a single dwelling will only have a very limited benefit especially given that the Council can currently demonstrate a 7.54 year supply of housing land. It is considered that the public benefits of the application do not outweigh the harm caused by the proposal to the setting of heritage assets. It is therefore considered that the proposal fails to preserve the setting of Listed Buildings and Todenham Conservation Area and is therefore contrary to S66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, Section 12 of the NPPF and Local Plan Policies 15 and 42.

**(d) Impact on Character and Appearance of Moreton-in-Marsh Surrounds Special Landscape Area**

The application site is located within Moreton-in-Marsh Surrounds Special Landscape Area (SLA).

Local Plan Policy 8: Special Landscape Areas states that 'development that meets the economic needs of communities will be permitted provided it does not unacceptably harm the area's landscape character or appearance.'

Local Plan Policy 42 states that 'development should be environmentally sustainable and designed in a manner that respects the character, appearance and local distinctiveness of Cotswold District with regard to style, setting, harmony, streetscene, proportion, simplicity, materials and craftsmanship.'

Paragraph 17 of the NPPF states that planning should recognise the 'intrinsic character and beauty of the countryside.'

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by 'protecting and enhancing valued landscapes..'

The site falls within a Landscape Character Area 'CFCV 1 Upper Stour Valleys and Hills' in the Assessment of Landscapes outside the Cotswolds Area of Outstanding Natural Beauty produced by White Consultants (July 2000). The landscape is described as;

' Part of a series of rounded hills and ridges between gentle valleys, distinctly lower than the Wolds and the Vale of Moreton. This area is quiet, mixed farmland. There are lost villages alongside the streams and fields of ridge and furrow.'

Sensitivities: Developments and changes around villages and elsewhere would be widely exposed. Limited capacity to absorb development generally.'

Key characteristics of the SLA include;

- Areas of rolling clay hills and valleys, some opening up to form wider vales. All are distinctly lower than the surrounding wolds, and they extend beyond the study boundary area.
- The Thames/Severn watershed crosses the area and small, tightly meandering streams and rivers form the headwaters of these river systems.
- The dominant land use is mixed farming with an emphasis on arable. In some areas fields are quite large, but more often are medium-sized with good hedges.
- There are sweeping views across the vales and between the hills to surrounding higher ground.
- This is a quiet, unspoilt pleasant and well managed rural landscape

On the basis of the SLA designation Officers consider that the site would fall within a valued landscape and as such Paragraph 109 of the NPPF would be applicable in this instance. The existing site forms part of attractive rolling landscape that acts as an important visual gap between the northern and southern halves of the village. It contributes positively to the rural setting of the village and helps to reinforce its rural, agricultural identity. The proposed development would result in the encroachment of residential development into the agricultural landscape. It will erode the visual gap that currently exists between the two parts of the village. The gap helps to maintain the open, rural character of the village and affords views across open countryside from the main road leading through the village. It is considered that the proposed development will undermine this character of the SLA. The economic benefits of the proposal are considered not to outweigh the harm to the character and appearance of the SLA and as such the proposal is considered to be contrary to Local Plan Policy 8.

The proposed development will also have an adverse impact on the setting, harmony, character, appearance and local distinctiveness of the locality and fails to protect or enhance a valued landscape. The application is therefore also considered to conflict with Local Plan Policy 42 and Paragraphs 17 and 109 of the NPPF.

#### **(e) Other Matters**

The application site is bordered to its north west by a native species hedgerow and to its north east by a willow tree which lies just outside the boundary of the site. The proposed access point lies within the root protection area of a mature tree adjacent to the site's southern boundary. Both trees are to be retained. The Council's Tree Officer has assessed the application and considers that the willow tree is not of particular merit in landscape terms and has no objections to the proposal in relation to this particular tree. With regard to the southern tree the Tree Officer has requested that a condition be attached should permission be granted which requires the submission of an arboricultural method statement and tree protection plan so that works to create the new driveway will not have an adverse impact on the well-being of the tree. It is considered that the development could be undertaken in a manner that would not contravene Local Plan Policy 10.

Access to the proposed dwelling will be via an existing field access at the southern end of the site. The existing entrance is set back approximately 4m from the carriageway and is located on a Class C Highway which is subject to a 30mph speed limit. The access is able to provide the requisite visibility for a 30mph highway of 2.4m by 54m in each direction. Adequate on site turning and manoeuvring is also available. The proposal is considered to accord with Local Plan Policies 38 and 39.

The applicant has submitted an ecological appraisal with the application. The appraisal did not identify the presence of any protected species on the site. In addition, the proposal will not result in the removal or reduction of the existing roadside hedgerow which is considered to be the most sensitive habitat on the site. The appraisal states 'the proposed development is thought to have very little impact on wildlife or habitats.' The Council's Biodiversity Officer has assessed the proposal and has raised no objection to the scheme.

## **9. Conclusion:**

Overall, it is considered that the proposed development would result in the creation of a new dwelling in a location remote from services, facilities and amenities. Future residents would be dependent on the use of the private motor car to undertake most day to day activities. This would result in an increase in car borne commuting and carbon emissions. The site is considered to represent an unsustainable location for new residential development in terms of accessibility. The proposal will also result in the development of an attractive parcel of agricultural land that makes a positive contribution to the rural character and appearance of the village and Moreton-in-Marsh Surrounds Special Landscape Area. The development of the site would also have a significant adverse impact on the setting of Listed Buildings and Todenham Conservation Area. The personal circumstances of the applicant are noted but are considered not to outweigh the harm that will be caused by the proposed development. There are no public benefits that outweigh the impact of the proposal on designated heritage assets and as such the proposal conflicts with S66(1) of the 1990 Act and guidance in Section 12 of the NPPF. It is therefore recommended that the application is refused.

## **10. Refusal Reasons:**

The proposed development would result in the erection of a new build open market dwelling on the edge of a village which is able to offer an extremely limited range of services and facilities. The site lies in an isolated location by virtue of its distance from services, facilities, amenities and public transport links. The application site therefore represents an unsustainable location for new open market residential development and would result in future occupiers of the proposed dwellings having to rely on the use of the private motor car to undertake most day to day activities. The proposal will therefore increase reliance on the use of the private motor car materially increasing car borne commuting and compromising the principles of sustainable development contrary to guidance contained in the National Planning Policy Framework, in particular Paragraphs 14, 17, 35 and 55.

The proposed scheme will result in the encroachment of residential development into an attractive parcel of agricultural land that makes a positive contribution to the character and appearance of the village and Moreton-in-Marsh Surrounds Special Landscape Area. It will diminish the openness of an undeveloped area of land that acts as an important visual gap between the northern and southern parts of the village to the detriment of the character and appearance of Moreton-in-Marsh Surrounds Special Landscape Area contrary to Cotswold District Local Plan Policies 8 and 42 and Paragraphs 17 and 109 of the National Planning Policy Framework.

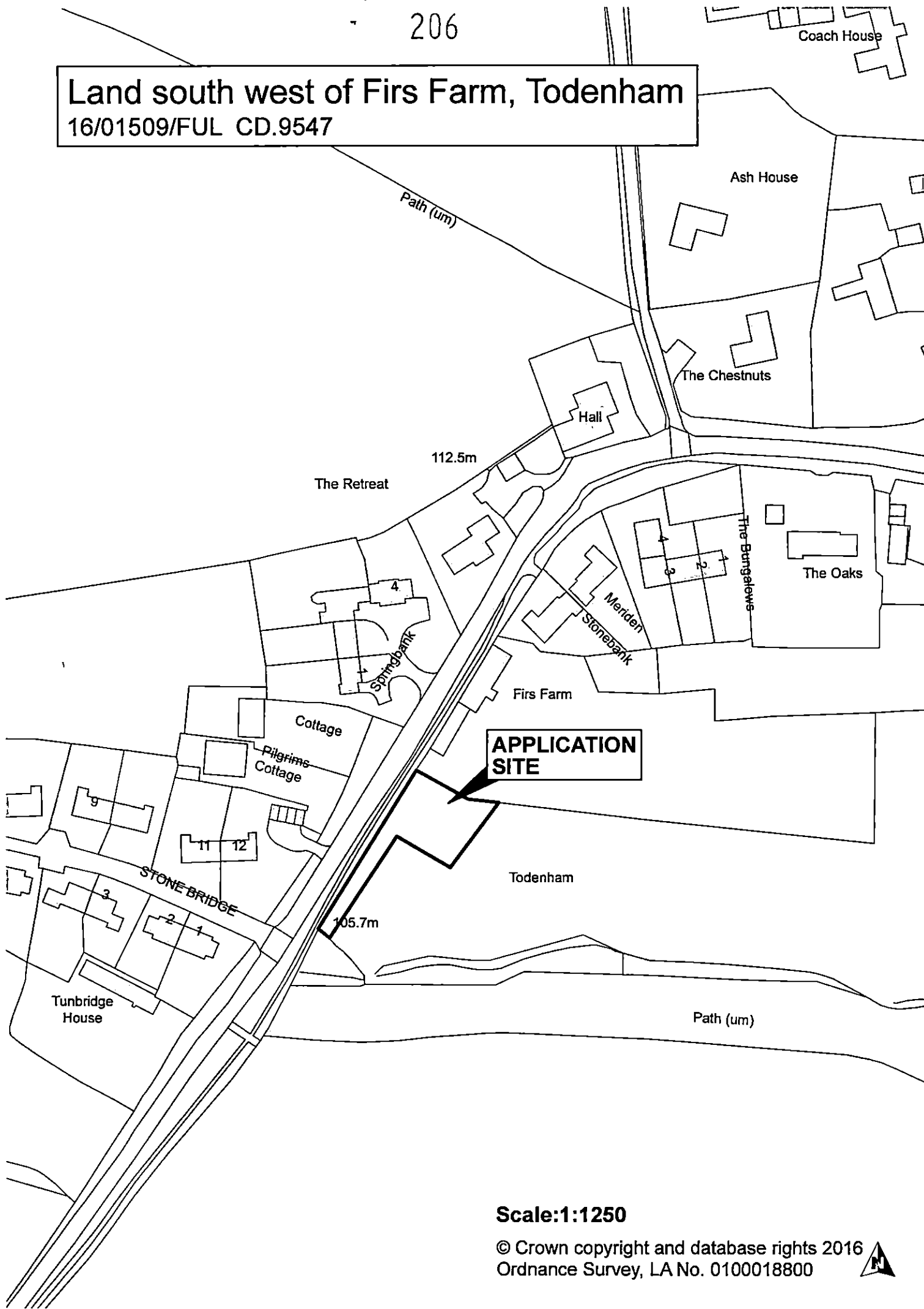
The application site is viewed in context with the Church of St Thomas of Canterbury which is a Grade I Listed Building and Firs Farm which is listed at Grade II. The Local Planning Authority is statutorily required to have special regard to the desirability of preserving the setting of listed buildings. The site also lies between two designated areas of the Todenham Conservation Area. The proposal is to construct a new single storey dwelling and access. The development would intrude on key vistas of the church and village, disrupting and adversely affecting the current foreground of open and gently rising ground. The development would erode an important rural break in the village, intruding on views of the valley and its strongly agricultural landscape. The development would also detract from the relationship between the listed buildings and the adjacent countryside. For these reasons there would be a failure to preserve the setting of the listed buildings and conservation area thereby diminishing the significance of the designated heritage assets. The proposal is considered to have less than substantial harm in the context of Paragraph 134 of the NPPF and this harm is considered not to be outweighed by public benefits in this case. The proposals are therefore considered to be contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 12 of the National Planning Policy Framework, and Policies 15 and 42 of the Cotswold District Local Plan.

**INFORMATIVES :-**

- 1 This decision relates to drawing numbers: C220/001 Rev O, C220/002 Rev O,

Land south west of Firs Farm, Todenham

16/01509/FUL CD.9547

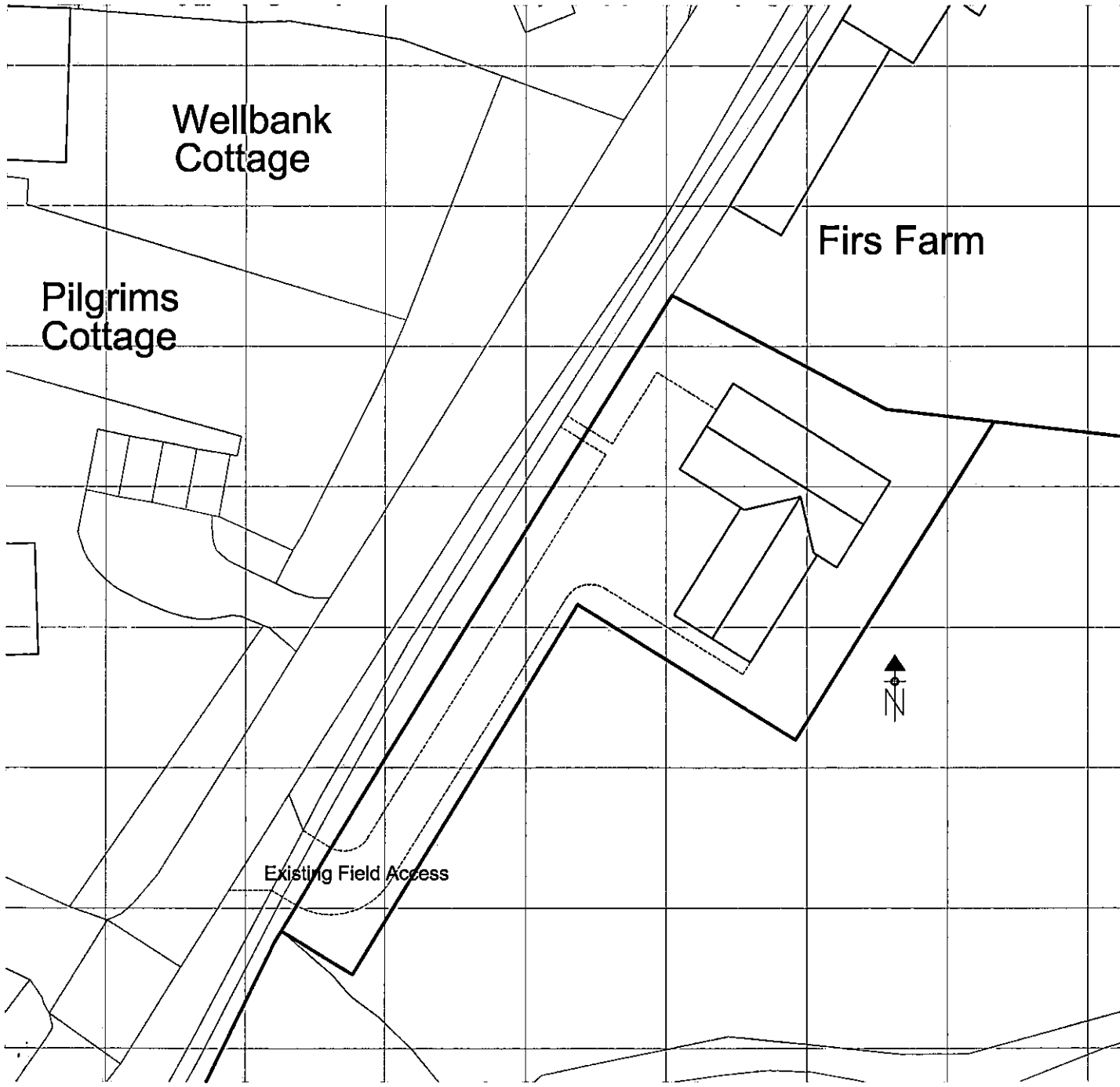


**APPLICATION SITE**

**Scale:1:1250**

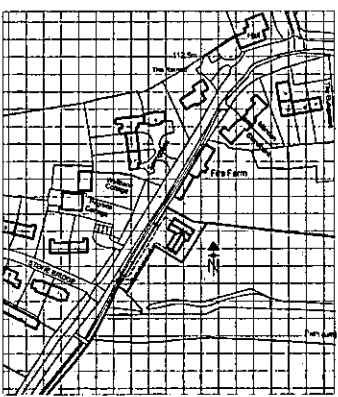
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Ordnance Survey, LA No. 0100018800





**Site Block Plan (1:200)**

**NOTES**



**Site Location Plan (1:1250)**

207


0	31/03	Planning Application	AS	AS
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Rev.	Date	Description	By	Chk	App
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**Client/Project**  
 Mr & Mrs Duckett  
 Land adj. Firs Farm, Todenham

**Drawing Title**  
 Proposed New Dwelling  
 Site Location & Block Plans

Designed	Drawn	Date	Scale
AS	AS	31/03/2016	As Shown
CAD Reference			Size
			A2

**Mirus Construction Limited**

Mirus Construction Limited  
 Unit 4, 3 Wilkinson Road  
 Cirencester  
 GL7 1YF  
 Tel: 01285 656555 Fax: 01285 656372

Drawing Number	
C220/001	0

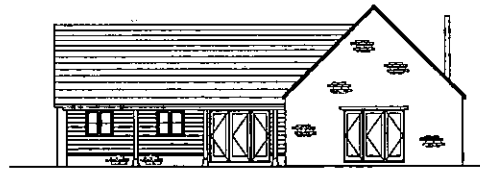
16/05/09/rm



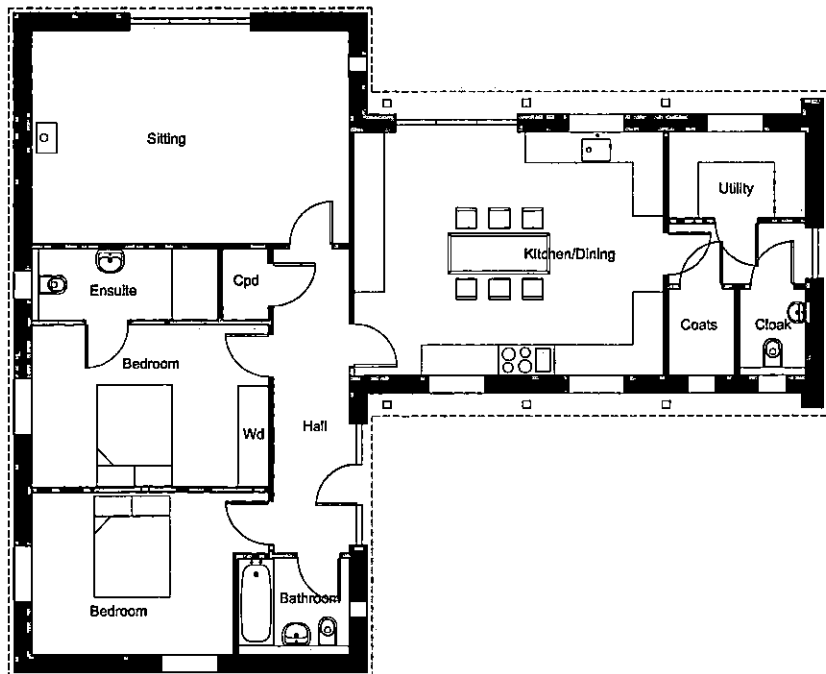
North West Elevation (1:100)



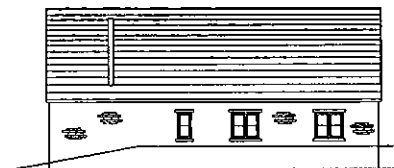
South West Elevation (1:100)



South East Elevation (1:100)



Proposed Floorplan (1:50)



North East Elevation (1:100)

208


0	31/03	Planning Application	AS	AS	
Rev	Date	Description	Dr	CHK	App

Client/Project  
Mr & Mrs Duckett  
Land adj. Firs Farm, Todenham

Drawing Title  
**Proposed New Dwelling  
Floorplan & Elevations**

Designed	Drawn	Date	Scale
AS	AS	31/03/2016	As Shown
CAI Reference			Size
			A1

Mirus Construction Limited

Mirus Construction Limited  
Unit 1, 3 Witham Road  
Chorleywood  
GL3 1YF  
Tel: 01295 656555 Fax: 01295 656772

C220/002





Above: View from site entrance

Below: View from Public Right of Way to south





SOUTH WEST OFFICE

Mr Martin Perks  
Cotswold District Council  
Planning Services  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

Direct Dial:

Our ref: P00513207

21 June 2016

Dear Mr Perks

**Arrangements for Handling Heritage Applications Direction 2015 &  
T&CP (Development Management Procedure) (England) Order 2015  
LAND SOUTH WEST OF FIRS FARM, TODENHAM, GLOUCESTERSHIRE  
Application No 16/01509/FUL**

Thank you for your letter of 1 June 2016 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

**Historic England Advice**

The focus of this response to Notification is the potential impact that this development would have upon the setting of the Church of St. Thomas of Canterbury, which is Grade I listed.

St Thomas' is an Anglican parish church dating from the 14<sup>th</sup> century, with an early 16<sup>th</sup> century north chapel. A Restoration in 1879 was carried out by J.E.K. Cutts. The significance of the church is based on layers of evidential, historic, aesthetic and communal value. The way in which one appreciates the architectural value of the church is a key component of significance.

The proposed erection of a single storey dwelling would be to the south west of the Church of St Thomas'. When at the church there is no inter visibility with the proposed site however the new building would impact on views when entering the settlement from the southwest.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 129 of the National Planning Policy Framework (NPPF), the significance of the asset's setting requires consideration. Para 132 states that in considering the impact of proposed development on significance great weight should



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## SOUTH WEST OFFICE

be given to the asset's conservation and that the more important the asset the greater the weight should be. When considering development that has the potential to affect setting Historic England's Advice Note 3, the Setting of Heritage Assets should be referred to.

Prominent within the village and the surrounding landscape is the two stage west tower with diagonal buttresses which continues up to form pinnacles around a ribbed, octagonal spire with 2-light lucarnes with limestone louvers and crocketed ogee heads on each side. This is a strong component of the church's architectural and communal significance. The way in which the church is legible within the landscape, by means of the spire, is at the core of its design. This church, as with most churches, was designed by be clearly visible from within the community and surrounding areas. By erecting a house the dominance of this church would be compromised and consequently there would be harm. As explained by Para 134 of the NPPF where a development will lead to less than substantial harm this should be weighed against the public benefits of the proposals. In this context it is for the planning authority to assess the public benefits that would accrue from this development.

### Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. If you would like further advice, please contact us to explain your request.

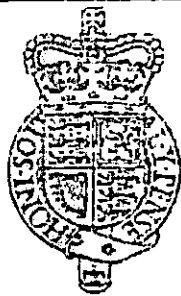
Yours sincerely,

**Simon Robertshaw**  
Inspector of Historic Buildings and Areas



29 QUEEN SQUARE BRISTOL BS1 4ND





## Appeal Decision

Site visit made on 14 January 2002

by **J L Dickinson** MA Dipl Arch

an Inspector appointed by the Secretary of State for Transport,  
Local Government and the Regions

The Planning Inspectorate  
4/09 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6FN  
☎ 0117 372 6372  
e-mail: enquiries@planning-  
inspectorate.gsi.gov.uk

Date

**23 JAN 2002**

**Appeal Ref: APP/F1610/A/01/1075640**

**Site address: Todthatch, No. 2, Todenham, Moreton-in-Marsh**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Burnford against the Cotswold District Council.
- The application (ref: CD4063/G), dated 11 May 2001, was refused by notice dated 7 August 2001.
- The proposed development is the extension and alteration of existing dwelling, erection of new dwelling and garage and associated works.

**Summary of Decision: The appeal is dismissed**

### Background

1. Todthatch is the northern house in a pair of unlisted semi-detached dwellings set within the Todenham Conservation Area. The proposals basically seek permission to erect a house in the side garden to Todthatch in order to realise capital so as to affect alterations to the existing house – which could not otherwise be afforded. However, although this could reasonably be construed as enabling development no Section 106 obligation or agreement has been submitted.
2. According to the report to committee only 2 consultations and representations were submitted in respect of the application – neither of which was from the County Council. Subsequently permission was refused solely because it was considered that the new house would unacceptably detract from the character and appearance of the conservation area. However, in fact a highway objection to the development had been made by the County Council on 11 June 2001 recommending refusal on grounds of unsustainability. On 28 November 2001 the County Council submitted a similar, though fully detailed, objection to the Inspectorate and copies of this were forwarded to the principal parties on 30 November 2001. Although a response dated 17 December 2001 was received from the agent there was no response from the District Council.

### The Development Plan and other Planning Policies

3. Section 54A of the Town and Country Planning Act 1990, as amended, requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the November 1999 Gloucestershire Structure Plan Second Review (SP) and the August 1999 Cotswold District Local Plan (LP). Having regard to the content of paragraph 2 above relevant policies to which attention has been drawn are SP policies T1, S3, S4, S5 and H6. These policies basically seek to restrict development to areas having a range of employment opportunities and facilities and which are also well served by public transport. It should be noted that the County Council prepared its first

full Local Transport Plan in parallel with the SP. This, amongst other things, effectively states that land use should take account of the criteria set out in Annex A to the 2001 RPG10.

4. In determining appeals it is also necessary to take account of Government policy and guidance. Given the content of paragraph 2 above PPGs 3 and 13 are of particular interest. It should be noted that these post date the development plan, being issued in March 2000 and March 2001 respectively, and, amongst other things, basically seek to reduce reliance on the use of private cars.

#### **Main Issue**

5. Having regard to the above, and from my consideration of the written representations and my findings on inspection, I have concluded that there is one main issue in this case. That is whether the proposed development is unacceptably in conflict with the objectives of up to date development plan and Government policies and guidance aimed at reducing the need to travel, especially by car.

#### **Reasons**

6. While Todenham is defined in the LP as a settlement where limited development can take place it is, nevertheless, a settlement where communal facilities are limited to a church, a village hall and a public house. The nearest shops and schools are located at least 3 miles away in Moreton-in-Marsh with access to that town being along a derestricted rural road lacking footpaths and street lighting. This road runs into the heavily used A429 just outside Moreton-in-Marsh. Although Todenham lies on a bus route the frequency of buses is extremely limited as they only run once each way on Wednesdays, Thursdays and Fridays. Given these findings it therefore seems reasonable to accept that occupants of the new house would be so heavily reliant on the use of a private motor vehicle that the proposal can reasonably be assumed to represent unacceptable, unsustainable development.
7. Notwithstanding this I acknowledge that the appellants rightly argue that the site is a 'brownfield' site and accept that PPG3 directs development towards such sites. However, PPG3 also requires the development of 'brownfield' sites to provide sustainable development that reduces car dependence – which is, in my opinion, unlikely with this particular site. I also accept that both PPGs 1 and 3 effectively state that rural areas can accommodate further housing – but this, I note, is only where such development is required to sustain economic activity or where it meets specific local needs. Although a generalised claim has been made that such requirements will be met no detailed evidence has been forthcoming. On balance therefore I do not accept that development of this particular "brownfield" site can be said to comply with Government policy.
8. I appreciate that it is suggested that as many residents of the village work from home lack of local employment opportunities would not necessarily lead to more car journeys – but as this is only speculation little, if any, weight can be attached to such an argument. I also appreciate that because the house would lie within the "PPG13" 5 km cycling threshold of Moreton-in-Marsh its occupants could use that mode of transport in preference to a car. However, I take the County Council's point that because cycling would be hazardous, especially during inclement weather and during the hours of

darkness, use of bicycles would at best be sporadic and would not therefore provide a realistic alternative to the car.

9. As a result of the above I have concluded firstly, that the lack of facilities, services and employment opportunities within Todenham would make it necessary for the occupants of the proposed house to travel further afield. Secondly, that the distance to the nearest settlement with an extensive range of essential services (Moreton-in-Marsh) is greater than that which occupants could be realistically expected to walk. Thirdly, that the nature of the road between the house and Moreton-in-Marsh is such that it would not be particularly attractive to cyclists. Fourthly, that the bus service is of limited use for commuting to Moreton-in-Marsh – or further afield. Taken overall therefore I have concluded that the occupants of the proposed house would be almost entirely reliant on use of the private motor vehicle with the result that the proposed development is unacceptably in conflict with the objectives of development plan and Government policy and guidance aimed at reducing such reliance.

#### **Conclusion**

10. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

#### **Formal Decision**

11. In exercise of the powers transferred to me, I hereby dismiss this appeal.

#### **Information**

12. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of this decision.

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INSPECTOR