

PLANNING AND LICENSING COMMITTEE

14th September 2016

ADDITIONAL PAGES

ADDITIONAL PAGES - CIRCULATED TO MEMBERS BY POST

**AVAILABLE FOR PUBLIC INSPECTION UNDER THE PROVISIONS OF THE
LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Additional Representations on Schedule Items

Pages 1 - 15

PLANNING AND LICENSING COMMITTEE

14th September 2016

ADDITIONAL PAGES ON SCHEDULE ITEMS

Item	Ref. No	Content
01	16/01603/FUL CT.0133/H	<p>Supporting letter from applicant – see attached</p> <p>Case Officer:</p> <p>i) The Tree, Conservation and County Highways Officers do not object to the revised visibility splays and the revised recommendation is to PERMIT the application. The County Highways Officer has recommended a condition which would require the vehicular access, as shown on the revised plan to be laid out and constructed before the building is occupied.</p> <p>ii) Nine additional letters of objection have been received raising similar issues to those listed within the report and the following:</p> <ul style="list-style-type: none">-speed survey was undertaken at a time and on a basis favourable to the applicant and is not a fair example;-development is not justified by the Local Plan;-a recent application for a dwelling was refused in Driffild because it was deemed to be an unsustainable settlement;-volume of vehicular traffic has risen in the past six months. <p>iii) One of these objection letters is from the Harnhill Centre of Christian Healing. Some of the issues raised are similar to those summarised within the report but other issues raised are as follows:</p> <ul style="list-style-type: none">-proximity to The Harnhill Manor (the main guest accommodation at The Harnhill Centre), which is a Grade 2* listed building.-privacy issues for guests (related specifically to the use of drones).- Clients and guests visit the Harnhill Centre of Christian Healing from all over the world, specifically because of its peaceful and quiet environment. Any increase in noise from cars (and/or other causes, such as drones) will be seriously detrimental to the work of the Centre. It is our real concern that peace and quiet is maintained in this area and these opinions are supported by others in the locality.
02	16/01777/FUL CD.2930/V	<p>Case Officer:</p> <p>i) Attached is a copy of the third party objector's letter referred to within the report. This was not attached as appendix to the report but was emailed to Members of the Planning Committee on 05.09.2016.</p>

		<p>ii) An updated Design and Access Statement to reflect the amended plans was submitted and added to the online application documentation on 05.09.16.</p> <p>iii) Please substitute the wording the second paragraph on 28 for the following:</p> <p>Paragraph 14 of the NPPF states that: “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means:</p> <ul style="list-style-type: none"> • approving development proposals that accord with the development plan without delay; and • where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: <ul style="list-style-type: none"> - 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 this Framework indicate development should be restricted. <p>Footnote 9 refers to polices relating to sites which are protected such as AONBs and designated heritage assets. Footnote 10 states “unless material considerations indicate otherwise”.</p> <p>Members will note that Local Plan Policy 19 (Development Outside Development Boundaries) was referred to in the 2012 refusal reason. However, since that date, appeal decisions have advised that this policy in respect of housing developments is inconsistent with the NPPF and in accordance with paragraph 215 is considered to be out of date. Therefore in determining this application, the second bullet point of paragraph 14 is relevant to the consideration of this application.</p> <p>iv) On page 29 of the report, within the “Other Policy Considerations”, please add the additional wording: Paragraph 115 of the NPPF states “Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty”.</p>
05	16/01839/FUL CT.4936/1/B	Supporting information from Agent – see attached
06	16/01209/FUL CT.2609/1/A	<p>Case Officer: Following the receipt of comments from the Environment Agency, the applicant has requested the deferral of the application to allow time for the issues raised to be addressed.</p>

		Officers are supportive of this request and the application is therefore deferred.
09	16/02138/REM CT.3452/D	Case Officer: Further Third Party letter of Objection received reiterating issues previously raised and that the revised proposals do not address the concerns over proximity and size of the dwelling in relation to a neighbouring property.



ROYAL AGRICULTURAL UNIVERSITY
CIRENCESTER

Ms H Donnelly
Senior Planning Officer (Development Management)
Cotswold District Council
Trinity Road
Cirencester
Gloucestershire
GL7 1PX

9th September 2016

Dear Ms Donnelly

Planning Application - Ref. No: 16/01603/FUL

Since it was established in 1845 the RAU has always been at the forefront of agricultural research and technology, and continues to be so. We have farmed at Harnhill since 1989 and have always used the farm as a learning and research resource. The RAU considers itself a 'custodian of the countryside' and has worked closely with its design team to produce a sympathetic design suitable for its location; the farms at Harnhill have always been, and will continue to be, an intrinsic part of the community.

The University is committed to being a centre of excellence for sustainable development relating to the rural economy and food chain. As part of this commitment it has secured significant funding from the Government's Growth Deal fund to create innovation space where research and development for rural business and agricultural technology (agritech) can be undertaken. This project, named Farm491 as it provides access to the university's 491 hectares of land, will require some space adjacent to a farm and farmland for undertaking practical tests and project works. The majority of funding will be invested in a new building located on its main campus; the remainder will be used to provide dedicated facilities for activities that need to be local to a farm and farmland in order to research and develop agritech solutions. The disused pole barn at Harnhill is an ideal opportunity for the provision of this space.

Nowadays research and commerce go hand in hand and the application seeks combined B1/D1 use classification to ensure that all likely activities can be undertaken in the project spaces. There seems to be a misconception that due to the B1 use the university will be advocating light industrial commercial enterprises – this is not the intention, the space will be used for research and development purposes.

Research and development tends not to be labour intensive; it is difficult to predict the exact nature of research to be undertaken although potential projects might include, for example, the application of new technology to traditional farm machinery, crop and soil health, livestock monitoring etc. The project spaces will not be intensively inhabited and the impact of those using the new facilities is not anticipated to significantly affect traffic levels/volume; it certainly will not involve significant numbers of students arriving en masse. Consequently the need for parking spaces will be small.

The proposal for the re-use of the pole barn has been developed in consultation with Cotswold District Council and provides a building of similar size and shape, sympathetic to the rural scale and typology of a farmyard setting, using the same materials as those used on the recently completed Rural Innovation Centre located alongside.

The proposal results in the loss of a cedar tree which is unfortunate, but we have been advised by our arboriculturist that this will provide space and opportunity for the remaining two cedars to grow into quality specimens. The proposed scheme includes the replacement of this cedar with three new oak trees, and is

complemented by the recently planted Heritage Orchard, comprising 187 fruit trees, immediately to the east.

The proposed scheme is a small, but pivotal, part of a project to provide research and development into areas of food security and sustainability which will be crucial in the medium to long term future. Research work has been an integral part of the RAU's farm estate and has been enhanced with the advent of the Farm491 project; the proposed scheme provides dedicated space in which to conduct this where connectivity with a farm and farmland is necessary.

Yours sincerely



Graham Barton
Director of Estates

Please ask for: Lizzie Marjoram

Our Ref: EHM/15

Your Ref:

E-mail:



Date: 25 August 2016

Helen Donnelly
Planning Officer
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Dear Ms Donnelly

RE: OBJECTION to application 16/01777/FUL. Land to the rear of Hillcrest Bourton-on-the-Hill
SUMMARY

I am instructed as planning solicitor by John and Sharan Stoker who object to the above named application. I enclose a suite of expert submissions to support this objection comprising comments from the following professionals:

Architect Ed Tyack
Heritage Consultant of EDP Eddy Stratford
Landscape consultants of EDP
Planning Consultant and Partner of Barton Willmore Kathryn Ventham

It is very important to look at the drawings and ZTV plan provided as these highlight two essential points for members to appreciate:

Applications for this site just keep getting bigger and this proposal with a wall of glass on the hillside in the AONB will be highly visible.

I gave notice on 25 July that these late submissions would be made and described the content of those submissions. I did not request deferral as Mr and Mrs Stoker wish to secure a swift refusal to save costs for all parties. You are aware that these matters are new material considerations and that the Council must consider them prior to reaching any decision on this application otherwise any decision made will not be sound. These submissions should be provided to members in full.

I can provide covering comments as follows, including legal submissions from me:

R I Wilford Ltd , J F Sale Ltd , S J Roberts Ltd , K J Vaughan Ltd
Consultants: E H Bird Ltd., S J Wrigley
Associate Solicitors: F A Qureshi, R D C Wilford

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Quality



ITEM 02 - 16/01777/FUL

6.

PLANNING HISTORY

1. There was an early planning permission in 1999 for a simple cottage and again in 2007, also for a simple cottage.
2. In 2012 I was involved in objecting to a large application 12/01921/FUL. That scheme was refused by the Council and dismissed by the planning inspector on appeal because of the unacceptable impact upon the character and appearance of the Bourton-on-the-Hill conservation area, the AONB and a series of adjacent listed buildings. I enclose that appeal decision because it gives important guidance from the Secretary of State on how this further large application on this site should be approached. **(APPENDIX 1)**

DESIGN

3. Please see the drawings provided by Ed Tyack, architect. These show the size of the scheme approved in 1999 (never implemented) and the size of the scheme approved in 2007 (never built) and the size of the current 2016 scheme for comparison purposes. Applications on this site just keep getting bigger and more harmful to the CA, AONB and listed buildings **(APPENDIX 2)**. Ed Tyack's work also shows the relationship of the design with the Grade 1 listed church and various photo viewpoints from which the proposal will be visible.
4. Why do the applications keep getting bigger? The site keeps changing hands for too much money and that creates pressure to build a bigger property to realise a better profit. It is not the job of the planning system to maximise developer profit to the detriment of the CA, the AONB and the listed buildings. I enclose a copy of a letter written by me to the marketing agents of the property. It is clear that this applicant would have been well aware of the complex planning history of the site and should have purchased the site only in the expectation of constructing the 2007 scheme. **(APPENDIX 3)**
5. Please see the design comments from Ed Tyack architect who concludes that the application design rationale is not appropriate for its sensitive context. The proposal represents an incongruous addition to the very special homogenous character of the CA. This is reflected by the significant objections from residents to the contemporary design. The recent changes to the application proposal are commented on by Ed Tyack and do not make the scheme design acceptable. **(also APPENDIX 2)**

HERITAGE

6. Eddy Stratford heritage consultant of EDP has raised preliminary concerns that this application does not even meet the criteria for validation. Despite all of the comments in the 2013 appeal decision this applicant did not even submit a heritage statement as required. I have raised this concern with you previously. The failure of the applicant to rectify this significant omission clearly evidences the apparent lack of regard for the impact of the proposal on the CA and the listed buildings. The soundness of any permission granted in the absence of this information would be questionable. **(APPENDIX 4)**
7. Eddy Stratford has concluded that harm will be caused to the CA and the listed buildings and this requires special justification from members. There must by law be identifiable public benefits which significantly outweigh this harm in order for permission to be granted. The only identifiable public benefit which accrues as a result of this application is the provision of 1 dwelling to boost housing supply. 1 dwelling is not significant in the context of the overall need for housing nor is a 5 bed £multimillion dwelling of the type for which there is most need in this community. It is important to note at this point that the category of 'less than substantial harm' is a technical term deriving from the NPPF and it does not mean that harm is less than serious or less than important.
8. Landscape architects at EDP have provided a ZTV map which shows the zone of theoretical visibility of the application site. Whilst the applicant has provided 10 viewpoints the reality is

that the location of the application proposal on a hill side in the AONB and CA is widely visible. The wall of glass would reflect sunlight behind the Grade 1 listed church. The CA does not have street lighting. Only the church is illuminated at night but beyond it would be seen the wall of glass with internal lighting for the property. I urge you to look carefully at the very high number of locations on the ZTV map from which the application proposal can be seen. It is very prominent and the design has manifestly failed to appraise and respect its sensitive landscape and heritage context. (APPENDIX 5)

PLANNING

9. Kathryn Ventham Partner and planning consultant of Barton Willmore has provided a full planning assessment of the proposal. Her conclusion is that the proposal clearly conflicts with both development plan policy and national policy. (APPENDIX 6)
10. She also concludes that the Design and Access Statement and supporting information is technically deficient. Consequently, a decision to approve this application would be vulnerable to Judicial Review.
11. A further concern is that the application proposes a road access in a very prominent location across the hillside of the AONB for construction. It is inevitable that this will create pressure for its retention. This would be very harmful to the AONB, the CA and the listed buildings and these adverse visual impacts should be considered fully now. Instead this very harmful aspect of the application presently evades scrutiny because there is no heritage statement and this access is not part of the application.

LEGAL SUBMISSIONS

12. The issue of precedent is important. If this harmful scheme is approved it may create a precedent for other 'contemporary' designs on the hillside, detrimentally affecting AONB, the CA and listed buildings in other Cotswold villages. The Council is the first line of defence for these irreplaceable assets, if it approves this application it will be faced with a rush of similar applications and required to exercise consistency in decision making or face many appeals on those grounds.
13. In the past, the Council has shown willing to treat the 2007 scheme 07/01788/FUL as a 'fallback position' which means that if this application is refused, the developer is entitled to build the 2007 scheme instead. The further importance of a valid fallback position is that it can justify a similar alternative proposal in this location, even where such a proposal does not comply with the development plan. However, this principal material consideration relied upon by the applicant to justify a departure from the development plan policies is premised upon the (questionable) contention that the 2007 permission was effectively commenced and therefore extant. The approach to be taken is a matter of law¹:
 - (a) Only if the potential implementation of the 2007 permission is more than a theoretical possibility should it be considered material to your determination.
 - (b) Only if it does pass that threshold requirement does any assessment of its weight fall to be determined.

Both of these matters are fact dependent. In view of the 9 years that has elapsed since the permission was granted it is contended that it fails at the first hurdle. Even if you determine that it does pass that threshold requirement, then there is no realistic possibility of its implementation. This is eloquently confirmed by the repeated subsequent applications which have all sought to build something else.

¹ See *Gambone v Secretary of State for C.I.G and Wolverhampton City Council* [2014] 1:W11C 952 (Admin) paras 22-28.

14. Irrespective of the above, it will be seen from the appeal decision at appendix 1 that the Secretary of State did not share the Council's view that the 2007 permission was validly implemented. It can be seen from the site visit that there was no proper scheme start and the site is just a big hole in the ground. More importantly there was no discharge of pre-commencement conditions which renders the start on site invalid.
15. In 2013 the Parish Council asked the Council's Chief Executive David Neudegg to take this issue to the Regulatory Committee to determine whether there was lawful implementation of the 2007 permission but this did not take place. (APPENDIX 7)
16. If the Regulatory Committee did consider the validity of this permission they would need to consider whether it was reasonable or expedient to take enforcement action. Even if they conclude that it would not be reasonable or expedient to take enforcement action, they could still conclude that the 2007 permission was not lawfully implemented which would mean that it cannot be used as a fallback position to determine any further applications for this site.
17. For these reasons, the Council should approach the claimed fallback position with caution as indicated above. Furthermore, this application is more harmful in visual terms than the claimed fallback scheme. As indicated by the objectors to this application, the 2007 scheme is to be preferred. The 2007 scheme was simpler, smaller and more in keeping with the character of the CA and the AONB and the listed buildings. Indeed, objectors liked the 1999 scheme even more. There are better design alternatives for development of this site (as recognised by Inspector Griffiths in the 2013 appeal and his more favourable assessment of the 2007 scheme).
18. With regard to the fallback position if the Council is not prepared to test the validity of the 2007 permission robustly at Regulatory Committee it should adopt the approach used by the Secretary of State in appendix 1 "*the acceptability of the proposal, or otherwise, rests on its impact on the AONB and designated heritage assets*". Due to the harm to these assets, the proposal must fail this test.
19. Another important legal duty which the Council must observe with regard to the heritage assets is consistency. The Council's planning committee refused the (smaller) 2012 application for "*reasons relating to the impact of the proposed development on the AONB, the CA and the setting of nearby listed buildings*". In 2013 that approach was upheld by Inspector Griffiths on appeal. I commend that same approach be followed for this application.

I will register Mr Stoker's barrister Paul Cairnes QC of No5 chambers to speak at the committee meeting on 14 September. Please do not defer committee consideration of this application again as the first deferral without notice caused wasted costs for Mr and Mrs Stoker. I have provided objection material well in advance of the proposed committee date, Mr and Mrs Stoker do not seek delay, they seek swift refusal of this deeply flawed proposal.

Yours sincerely



Mrs Lizzie Marjoram
Bird Wilford & Sale

Enc: APPENDICES 1-7

Cc John and Sharan Stoker, Paul Cairnes QC, Ed Tyack, Eddy Stratford EDP, Kathryn Ventham and Gemma Johnson Barton Willmore, Tom Martin, Andy Vigrass, Liz Bowden

Support Documentation for The Close, The Croft, Fairford, GL7 4BB

Introduction

Subsequent to a committee meeting for the determination of application reference 16/01839/FUL the decision has been deferred subject to a site visit.

At the request of the planning department additional visual aids have been produced to help the committee members.

The CAD drawings for the proposals have been translated into a 3D model and printed on a 3D printer to generate a physical model of the finished design. This document presents images of this model to compare with the existing building.

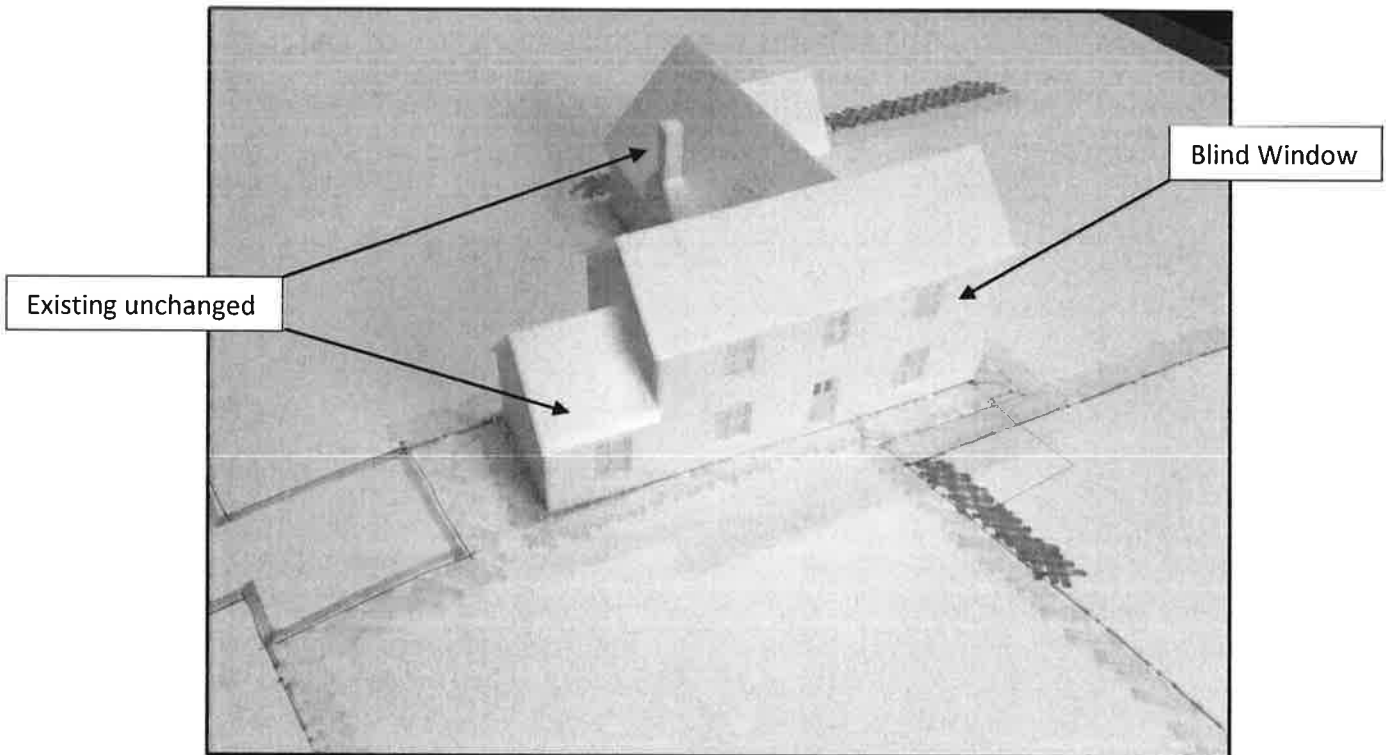
Proposals

The existing West elevation is pictured below



Existing West Elevation

The proposals aim to transform this elevation by the addition of a first floor extension in the North/South axis. The goal is to generate a much more traditional double fronted cottage facing onto the large drive area.



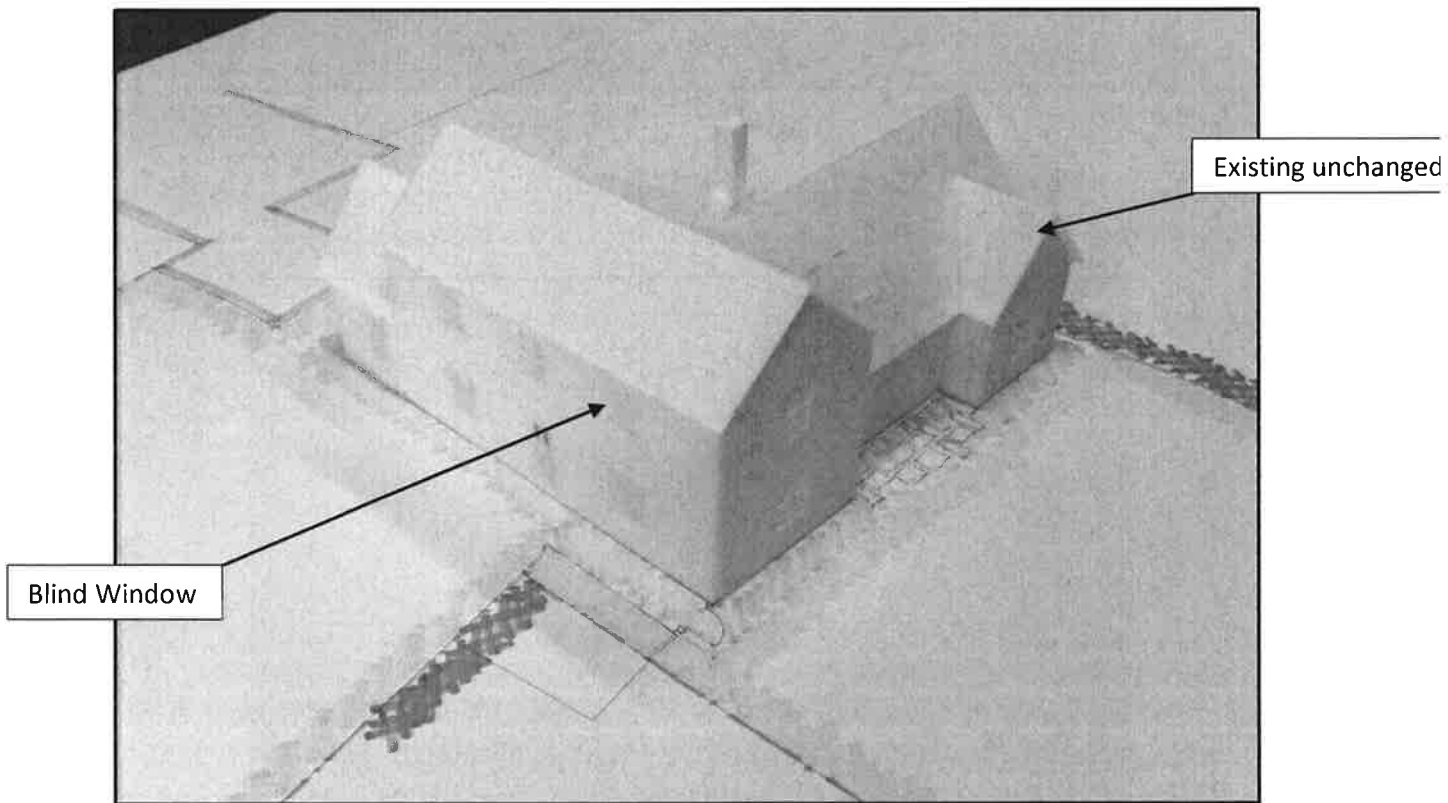
Proposed view from North West

The existing building has a circular, flat roofed bay window and an awkward appearing conservatory facing South onto the main garden area.

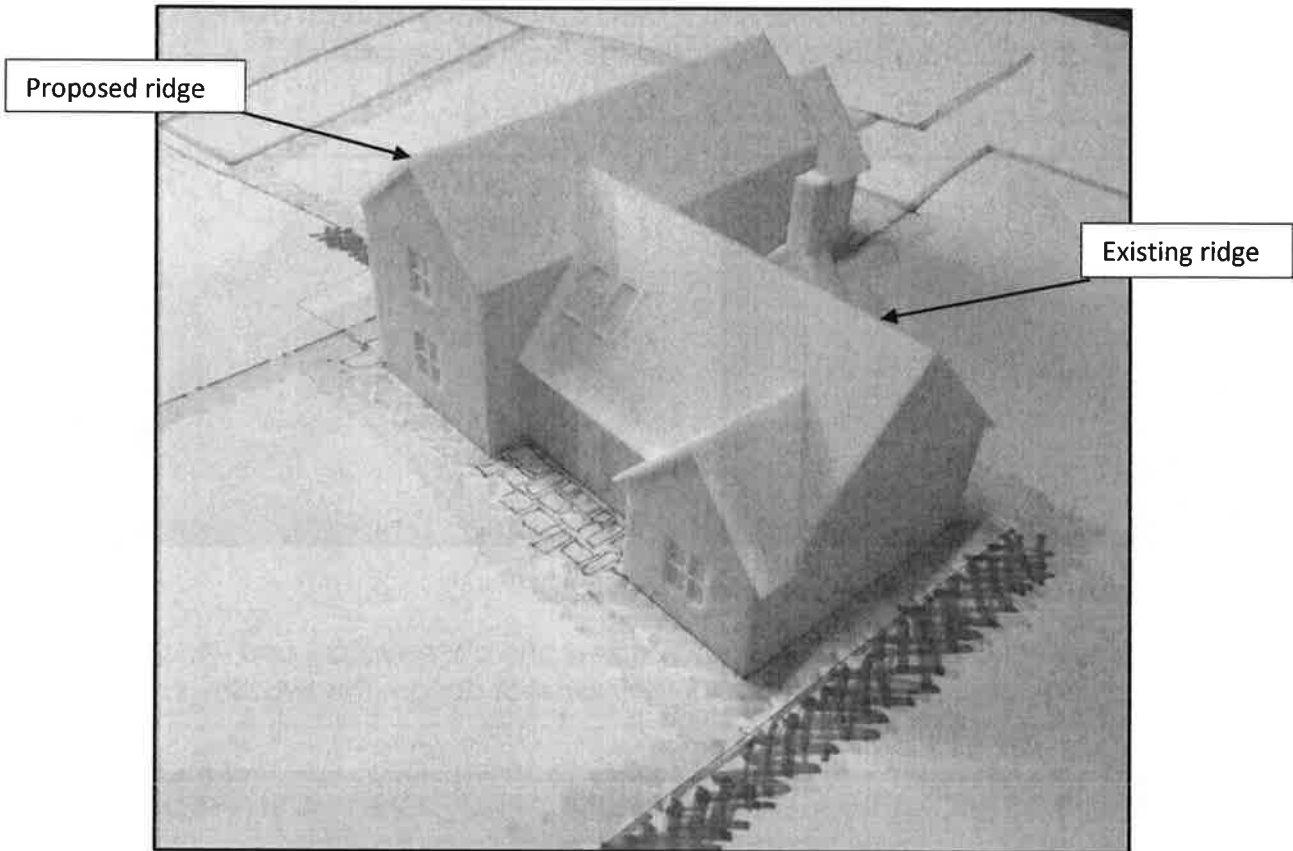


In addition it also has a solar array in the main roof.

The proposals seek to demolish the bay window and conservatory and widen the small, Western gable to accommodate the new roof design. The two views below illustrate the proposals in full.



View from South West

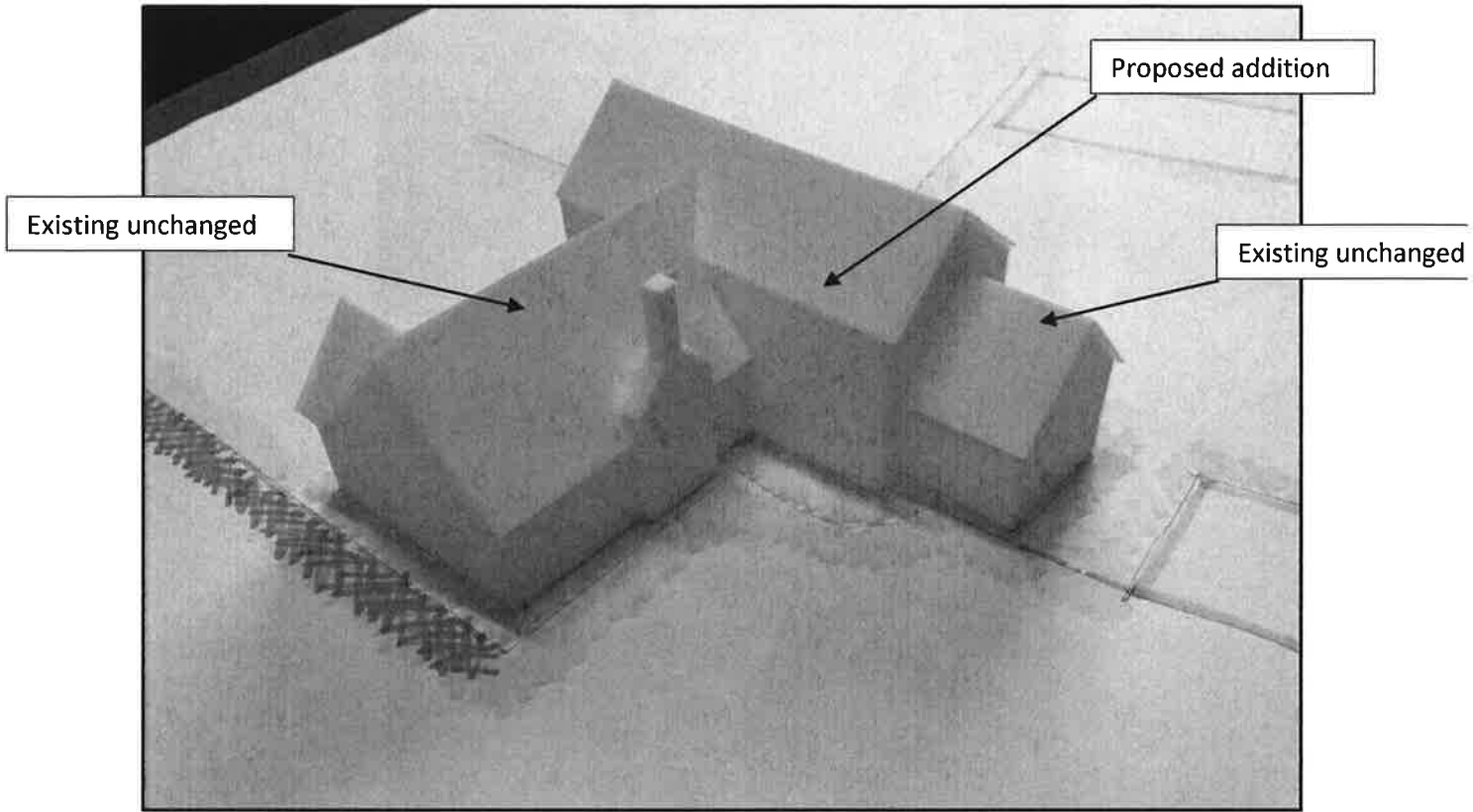


View from South East

One issue that has been raised relates to loss of light to the neighbouring garden to the North. The existing East facing element in this area is pictured below.



It's undeniable that some loss of light will occur but this relates to a very small area in an area already shaded by the existing building. The image below illustrates this.



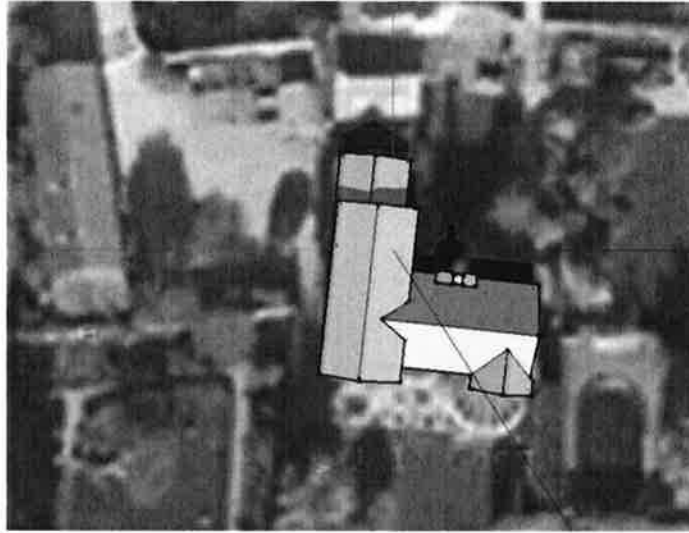
View from North East

Sun tracking

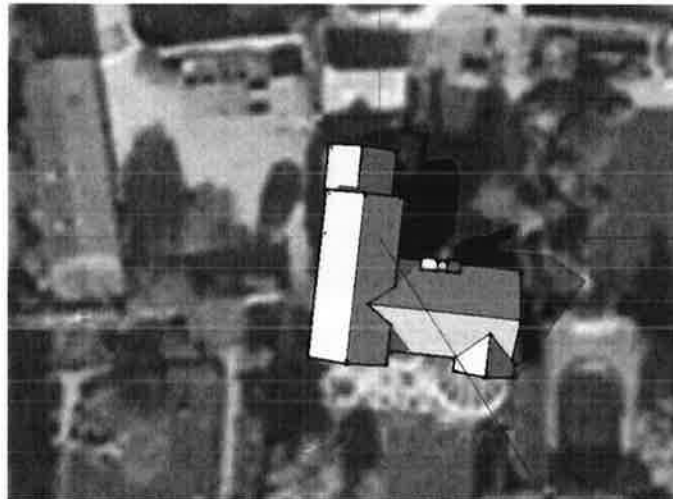
Using the same 3D model & geo-locating it onto a map we can generate an image of the predicted shadowing as illustrated below.



21st June – 6AM



21st June – 12 Noon



21st June 3PM



21st June – 6PM

The shadows off the original satellite image are visible so the predicted shadowing is outlined in red.