

Item No 02:-

17/04021/FUL

**79 The Sunground
Avening
Tetbury
Gloucestershire
GL8 8NW**

Item No 02:-**Erection of one and a half storey house at 79 The Sunground Avening Tetbury Gloucestershire GL8 8NW**

Full Application 17/04021/FUL	
Applicant:	Mr Adam Savage
Agent:	D.Stainer-Hutchins Architects Ltd
Case Officer:	Claire Baker
Ward Member(s):	Mr Richard Morgan
Committee Date:	13th June 2018
RECOMMENDATION:	REFUSE

Main Issues:

- (a) The principle of a new dwelling and sustainability
- (b) Scale, design and impact on the Cotswolds Area of Outstanding Natural Beauty and setting of the Avening Conservation Area.
- (c) Residential amenity
- (d) Impact on trees
- (e) Access, parking and affordable housing

Reasons for Referral:

Councillor Morgan has requested that the application be considered by the Planning Committee as he does not support the Officer recommendation for the following reasons:

In the light that planning permission has been granted for 11 new properties immediately adjacent to this planning application, and the fact that there is already a mixture of housing styles in the immediate area, I don't agree with CDC view that this application is "not in keeping with the area". A single property will not cause that much extra disturbance to the surrounding area and will not cause a significant increase in traffic movements in my opinion. The applicant owns the flats to the front of the build, and is willing to reduce the back garden size of these flats in order to accommodate a driveway with off street parking. Furthermore they are willing to dig downwards to reduce the height of the new build.

1. Site Description:

The application site is a 1980's 2 storey, semi-detached house that has been split into two flats. To the front of the property is a parking area and there is a large garden to the rear. At the bottom of the garden is a belt of trees which marks the boundary with the conservation area. The site, itself is not within the conservation area but it is within the Cotswolds Area of Outstanding Natural Beauty.

2. Relevant Planning History:

09/01686/FUL Proposed erection of a two bedroom starter dwelling with vehicular access. Application returned 26 June 2009.

10/01304/FUL Conversion of the existing house into two flats and erection of a two storey side extension. Permitted 13 May 2010.

3. Planning Policies:

NPPF National Planning Policy Framework
 LPR10 Trees, Woodlands and Hedgerows
 LPR15 Conservation Areas
 LPR19 Develop outside Development Boundaries
 LPR38 Accessibility to & within New Develop
 LPR39 Parking Provision
 LPR42 Cotswold Design Code
 LPR46 Privacy & Gardens in Residential Deve

4. Observations of Consultees:

Tree Officer: No objection subject to condition

5. View of Town/Parish Council:

Neither supports nor objects but made the following observations:

Would smoke from a wood burner affect neighbouring properties if it were sited on a lower level within the property.

6. Other Representations:

2 objections received:

- (i) The property, previously a single dwelling house, was converted into 2 flats by the applicant and as a result the property was enlarged and a large car parking area was made at the front alongside the living room window of the adjacent property No.77 which is quite visually unattractive for the occupiers and has affected the value of No. 77;
- (ii) the construction of a new parking area at the rear would affect the privacy of the occupiers of No.77 and would lead to noise and further devaluation of the neighbouring property;
- (iii) the excavation required could cause damage to the neighbouring hedge and pond;
- (iv) the applicant cut down many trees on the site prior to the application leading to adverse visual impact and loss of wildlife habitat;
- (v) the site is within the Area of Outstanding Natural Beauty and the erection of a building in a relatively small space intended as a garden would reduce its beauty;
- (vi) the garden was used by the previous owners and could be used by the flats;
- (vii) the proposed chimney is not in keeping as no other houses have chimneys and smoke would blow into the garden and affect washing;
- (viii) the conversion of the dwelling to two flats has already impacted on the amenity of the occupiers of No. 81 and the proposed new driveway would further impact on this amenity as it would run the length of the neighbouring driveway and garden given rise to loss of privacy, noise and pollution;
- (vix) the spaces at the rear of the properties were for gardens;
- (x) there is some low cost housing available in Avening;

2 letters of support received:

- (i) smaller properties are needed so that local people can remain in the village;
- (ii) : the proposals are in keeping with the village and are not too intrusive to anyone.

1 general comment received:

- (i) Avening needs more affordable housing as it is very difficult for children of local residents to get on the housing ladder locally; the proposals are in keeping with the village and are not too intrusive to anyone.

7. Applicant's Supporting Information:

Design and access statement
Arboricultural Report

8. Officer's Assessment:

The proposal

The proposal is for a one and a half storey, two bedroom, detached dwelling to be located in the rear garden of 79 Sunground. There would be a parking area for two cars adjacent to the new dwelling and an access road to it adjacent to No. 81 Sunground. The existing access onto the highway would be utilized. The proposed dwelling would be sunk 2.1 metres into the ground to reduce its impact in terms of overlooking and loss of light to neighbouring properties. The proposed materials would be reconstructed stone walling, reconstructed stone roof tiles and timber doors and windows.

(a) The Principle of a new dwelling and sustainability

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan is therefore the starting point. In this case the development plan is the adopted Cotswold District Local Plan 2001 - 2011. As shown on the Proposals Map to the Local Plan, the application site is located outside of an adopted development boundary. The correct local policy to apply in terms of the principle of the proposed development is therefore Local Plan Policy 19 (Development Outside Development Boundaries).

Local Plan Policy 19 supports development appropriate to a rural area provided that the proposals relate well to existing development, meets the criteria set out in other relevant local plan policies and results in development that does not significantly compromise the principles of sustainable development. However, Local Plan Policy 19 does explicitly exclude the development of new-build open market housing outside of adopted development boundaries.

It has been established at appeal that Policy 19 is time expired and fails to reflect the advice in the National Planning Policy Framework (NPPF) in severely restricting rather than significantly boosting the supply of housing and also conflicts with the strategy of the emerging local plan. It is therefore the Council's position that little weight can be accorded to Local Plan Policy 19 in the specific circumstances of this case.

Paragraph 55 of the NPPF states that Local Planning Authorities should avoid new isolated homes in the open countryside. However, the NPPF also confirms that, in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 states that where there are groups of smaller settlements, development in one village may support services in a village nearby.

The village of Avening has a range of facilities including two public houses, a primary school and village hall. There is a bus service to the nearest centres of Tetbury and Nailsworth which have a wider range of facilities. Officers are therefore of the opinion that Avening is a sustainable settlement in accordance with paragraph 55 of the NPPF.

In the emerging local plan, Policy DS3 sets out the principles of residential development outside of the principal settlements. It states:

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 draft policies have been through Local Plan Examination and were not proposed for amendment in the Planning Inspector's Main Modifications Note produced in January 2018. At the time of writing this report the Inspector's Fact Report on the last modifications to the emerging plan is imminently expected. Once this has been received the emerging plan policies will have parity with the currently adopted local plan policies and will carry significant weight. In addition it is planned that the Emerging local Plan will be presented to Council on 21 June for adoption. Officers are of the view that the principle of the erection of a single dwelling is compliant with Section 55 of the NPPF and emerging local plan policy DS3.

(b) Scale, design and impact on the Cotswolds Area of Outstanding Natural Beauty and setting of the Avening Conservation Area.

The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) wherein the Council is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape (S85(1) of the Countryside and Rights of Way Act 2000).

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'.

Paragraph 115 states that 'great weight should be given to conserving landscape and scenic beauty in ... Areas of Outstanding Natural Beauty.'

The site is also adjacent to the Avening Conservation Area. Section 12 of the National Planning Policy Framework asks that Local Planning Authorities should take account of the desirability of sustaining or enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of the proposed works on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It also states that significance can be harmed through alteration or development within the setting.

Policy 15 of the Cotswold District Local Plan states that development must preserve or enhance the character or appearance of the area as a whole, or any part of that area. Uses that create additional traffic, noise or other nuisance, which would adversely affect the character of the area, would not be permitted. It states that development will be permitted unless: it involves the demolition of a building, wall or other structure that makes a positive contribution; new or altered buildings are out-of-keeping with the special character or appearance of the area in general or in a particular location (in siting, scale, form, proportions, design or materials); or there would be the loss of open spaces that make a valuable contribution.

Section 7, paragraph 56, of the NPPF states that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, indivisible from good planning and should contribute positively to making places better for people.

Paragraph 64 states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

Policy 42 of the Local Plan requires that development should be environmentally sustainable and designed in a manner that respects the character, appearance and local distinctiveness of the Cotswold District with regard to style, setting, harmony, street scene, proportion, simplicity, materials and craftsmanship. This is also reflected in Policy EN2 of the emerging Local Plan

Paragraph 17 of the NPPF states that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

Cotswold District Local Plan Policy 46 (Residential Amenity) states that the design and layout of new residential development, including extensions to existing dwellings should provide adequate areas of open space around dwellings, so as to ensure reasonable privacy, daylight and adequate private outdoor living space. This is reiterated in the Design Code of the emerging Local Plan.

With regard to the emerging Local Plan, the following policies are considered relevant:

Policy EN1 Built, Natural and Historic Environment states:

New development will, where appropriate, promote the protection, conservation and enhancement of the historic and natural environment by:

- a. Ensuring the protection and enhancement of existing natural and historic environmental assets and their settings in proportion with the significance of the asset;
- b. Contributing to the provision of multi-functional green infrastructure;
- c. Addressing climate change, habitat loss and fragmentation through creating new habitats and the better management of existing habitats;
- d. Seeking to improve air, soil and water quality where feasible; and
- e. Ensuring design standards that complement the character of the area and the sustainable use of the development.

Policy EN2 Design of the Built and Natural Environment

Development will be permitted which accords with the Cotswold Design Code. Proposals should be of design quality that respects the character and distinctive appearance of the locality.

Policy EN4 The Wider Natural and Historic Landscape states:

1. Development will be permitted where it does not have a significant detrimental impact on the natural and historic landscape (including the tranquillity of the countryside) of Cotswold District or neighbouring areas.
2. Proposals will take account of landscape and historic landscape character, visual quality and local distinctiveness. They will be expected to enhance, restore and better manage the natural and historic landscape, and any significant landscape features and elements, including key views, the setting of settlements, settlement patterns and heritage assets.

EN5 Cotswolds Area of Outstanding Natural Beauty (AONB). Policy EN5 states:

1. In determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.
2. Major development will not be permitted within the AONB unless it satisfies the exceptions set out in National Policy and Guidance.

Policy DS3 Small-Scale Residential Development in Non-Principal Settlements states:

In Non-Principal Settlements, small-scale residential development will be permitted provided it:

C. complements the form and character of the settlement;

The proposed dwelling would be a one and a half storey, two bedroom, detached dwelling to be located in the rear garden of 79 Sunground. There would be a parking area for two cars adjacent to the new dwelling and an access road to it adjacent to No. 81 Sunground. The proposed dwelling would be dug into the ground to ensure that the building would not be overbearing on or give rise to overlooking of neighbouring properties.

The application site is part of a group of two-storey semi-detached dwellings which have generous rear gardens. To the west of the site is a cul-de-sac of two storey dwellings set in smaller plots. Officers are of the view that the proposed dwelling would result in over development of the site that is out of character with the grain of adjacent properties. The proposed dwelling would be cramped and contrived within the plot in comparison with nearby dwellings. In order to achieve the parking and turning area for the new dwelling it would be necessary to significantly reduce the area of amenity space available for the existing two flats and would result in the original dwelling, now converted into two flats, having a curtilage that is disproportionately small in comparison with the size of the building and hence out of character with the other existing similar dwellings in the street.

The fact that the owner of the flats, who is the applicant, is willing to reduce this amenity space in order to accommodate the new dwelling is not a planning consideration as the site could be sold on in the future and it is necessary to consider the visual and residential amenity of the site in perpetuity.

In addition, the cramped nature of the development is further illustrated by the fact that, in order to ensure there would be no impact on the neighbouring properties in terms of being overbearing or overlooking, it would be necessary to sink the proposed dwelling into the ground. Officers therefore consider the proposal to be out of keeping with the appearance of the locality and harmful to the character and appearance of this part of the AONB. The proposal is therefore contrary to Adopted Local Plan Policies 42 and 46, emerging Local Plan Policies DS3, EN1 and EN2, EN4 and EN5 and Sections 7 and 11 of the NPPF.

The part of the conservation area adjacent to the site consists of woodland rather than residential development. It consequently has a distinctly different character to the applications site. In view of the distinctly different character of this part of the conservation area, Officers are of the view that the proposal would not diversely affect its setting. The proposal would therefore comply with adopted Local Plan Policies 15 and 42, emerging Local Plan Policies EN1 and EN2 and Section 12 of the NPPF.

(c) Residential Amenity

Paragraph 17 of the NPPF states that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

Cotswold District Local Plan Policy 46 (Residential Amenity) states that the design and layout of new residential development, including extensions to existing dwellings should provide adequate areas of open space around dwellings, so as to ensure reasonable privacy, daylight and adequate private outdoor living space.

The proposal would result in a tandem form of development. By virtue of the close proximity and awkward relationship between the application site and existing dwellings, the intended access would run the length of the boundary with the neighbouring property No. 81 Sunground and the parking and turning area would be adjacent to the rear gardens of both No.87 and No. 77 Sunground and the existing flats. The vehicular use of the driveway and associated parking and turning areas would lead to noise and disturbance, consequently resulting in a loss of residential amenity in relation to the quiet enjoyment of the occupants of neighbouring dwellings and their private garden areas. It is therefore considered that the proposal would result in unacceptable

harm to residential amenity of the adjacent occupiers contrary to adopted Local Plan Policy 46, emerging Local Plan Policy EN2 and paragraphs 56 and 64 of the NPPF.

(d) Impact on trees

The proposals have the potential to cause harm to the trees to the north of the site that are protected by virtue of being within the Conservation Area. Therefore the site north of the proposed wall would need to be a construction exclusion zone. The Tree Officer is satisfied that the application of conditions relating to tree protection, surfacing/walling and services would ensure that the proposals would not adversely impact the trees adjacent to the site.

(e) Access, parking and affordable housing

Section 4 of the NPPF advocates sustainable transport, including safe and suitable access to all sites for all people. However, it also makes it clear that development should only be prevented or refused on highway safety grounds where the residual cumulative impacts of that development are severe. Local Plan Policy 38 also seeks to ensure sustainable and safe access to new development; whereas Policy 39 seeks to secure vehicle parking that takes account of the proposed use, its scale and location, its existing and potential accessibility by walking, cycling and public transport, and the proximity and capacity of any existing off-street public parking. This is reflected in Policy INF5 of the emerging Local Plan.

With regard to access, the driveway entrance is splayed to provide the required viewing angles onto the main road of 30 metre site lines and the driveway is wide enough for two cars to pass if required. There would be parking for two cars on site together with a turning head to allow cars to turn and exit the site in a forward gear. It is therefore considered that the scheme would not result in an adverse impact on the highway, parking or highway safety in accordance with Policies 38 and 39 of the Local Plan and paras 38 and 39 and Section 4 of the NPPF. The equivalent emerging Local Plan Policies are broadly consistent with the current policies.

The applicant has referred to the fact that the proposed dwelling would be affordable, however the applicant has declined to submit a Section 106 Legal Agreement with the application to ensure this and therefore the proposal must be considered as an open market dwelling albeit modest in scale.

9. Conclusion:

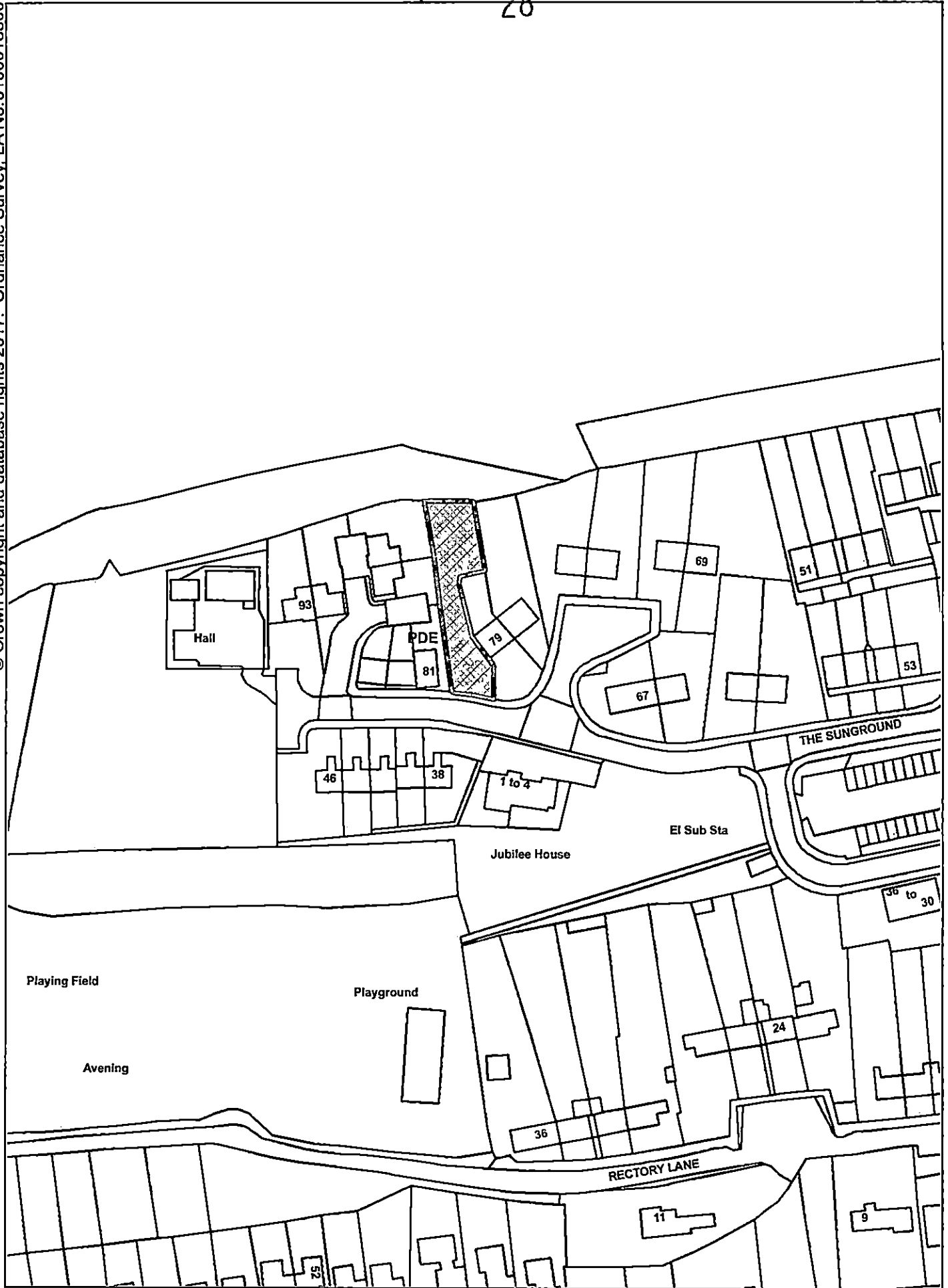
The proposal is considered to be contrary to National and Local Plan Policies and it is recommended that planning permission is refused for the following reasons:

10. Reasons for Refusal:

The proposed dwelling would be cramped and contrived within the plot in comparison with nearby dwellings and would result in the original dwelling, No.79, now converted into two flats, having a rear amenity area that is disproportionately small in comparison with the size of the building and hence out of character with the other existing similar dwellings in the street. As a result the proposal would also have an adverse impact on the character or appearance of the Cotswolds Area of Outstanding Natural Beauty. The proposal is therefore contrary to adopted Cotswold District Local Plan Policies 42 and 46, emerging Cotswold District Local Plan Policies EN1, EN2, EN4 and EN5 and paragraphs 56 and 64 of the National Planning Policy Framework.

The proposal would result in a tandem form of development. By virtue of the close proximity and awkward relationship between the application site and existing dwellings, the intended access would be immediately adjacent to both the front and rear gardens of No. 81 Sunground and the parking and turning area would be adjacent to the rear gardens of Nos 81, 77 and the existing flats at 79 Sunground. The vehicular use of the driveway and associated parking and turning areas would lead to noise and disturbance consequently resulting in a loss of residential amenity in relation to the quiet enjoyment of the occupants of neighbouring dwellings and their private garden areas. The proposal is therefore contrary to Policies 19 and 46 of the adopted Cotswold District Local Plan, Policy EN2 of the emerging Cotswold District Local Plan and paragraphs 56 and 64 of the National Planning Policy Framework.

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79 THE SUNGROUND AVENING

Scale: 1:1250

Organisation: Cotswold District Council

Department:

Date: 31/05/2018



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DISTRICT COUNCIL





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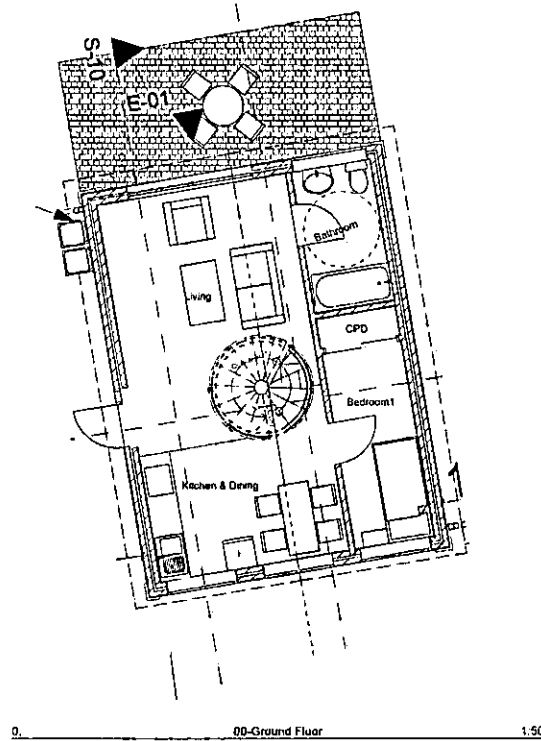
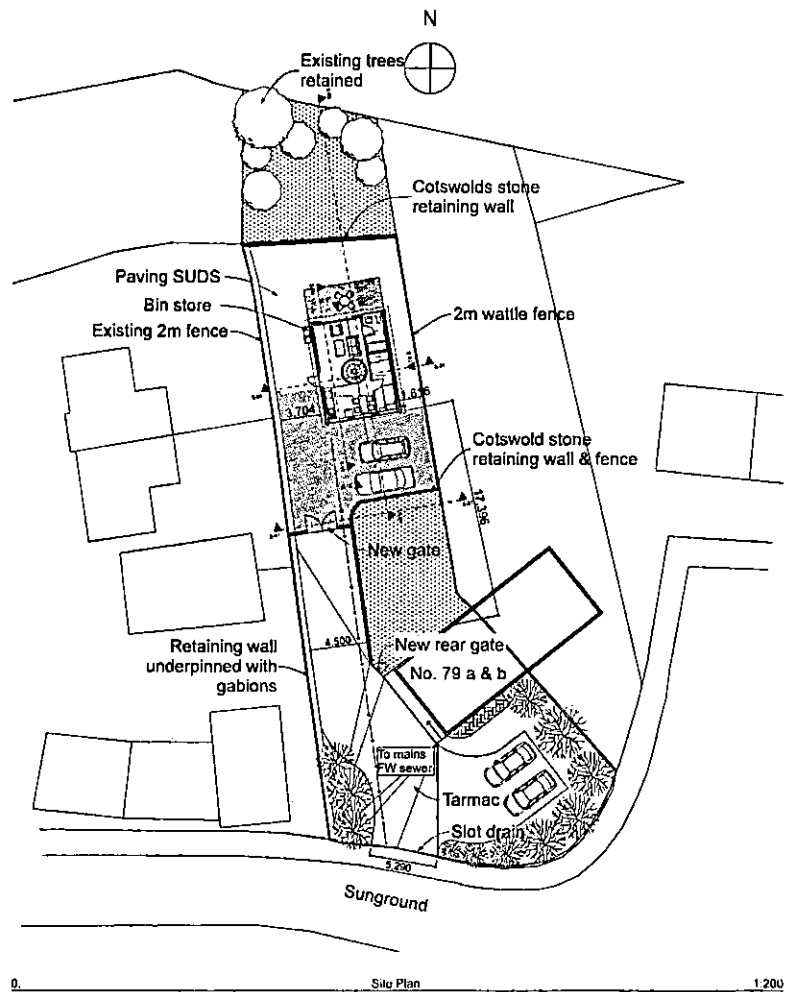
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Project: 79-C Sunground, New House
73 Burgundy Avenue Gloucester GL1 8

Project Info: Floor plans
Plot: 79-C
13/05/2014



Please see also 2007 Policy document on floor to ceiling heights and levels.
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