



Report of the Chief Planning Officer

SOUTH & WEST PLANS PANEL

Date: 17th March 2016

Subject: APPLICATION 15/07550/FU – Demolition of existing dwelling, associated alterations to Jasmine Cottage and erection of replacement dwelling with access and landscaping at Church View, Arthington Lane, Arthington, Otley, LS21 1PJ

APPLICANT

Olicana Properties Ltd.

DATE VALID

18th December 2015

TARGET DATE

21st March 2016

Electoral Wards Affected:

Adel and Wharfedale

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

REFUSE for the following reasons:

- 1) The Local Planning Authority considers that the proposal represents development which, by virtue of the proposed location of the new dwelling in the open parkland setting of Arthington Hall and away from the existing pattern of development along Arthington Lane, would be significantly harmful to the openness, character and appearance of the Green Belt. In addition, the proposal, by representing an encroachment of development in to the countryside, would be harmful to one of the five purposes of the Green Belt as outlined in the National Planning Policy Framework. The harm created in the above respects would be significant and, in line with paragraph 88 of the NPPF, substantial weight should be given to this harm. As such the proposal is contrary to the aims of the National Planning Policy Framework and saved Leeds Unitary Development Plan policy N33.
- 2) The Local Planning Authority considers that the proposal, by virtue of the loss of the curtilage listed building Church View which is a positive building in its own right and which makes a positive contribution to the historic and aesthetic value of the Grade II listed Arthington Hall, would be harmful to the significance of the heritage asset. This harm would not be outweighed by any public benefits of the proposal including

through securing its optimum use. As such the proposal is contrary to the aims of the National Planning Policy Framework, policy P11 of the Leeds Core Strategy, saved policy N14 of the Leeds Unitary Development Plan and the relevant test set out in the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.

- 3) The Local Planning Authority considers that the proposal, by virtue of the siting of the new dwelling in currently open parkland of high landscape value and the change of use of land to accommodate a form of development which is out-of-keeping with the character of the landscape, would be harmful to the character and appearance of the designated Special Landscape Area. As such the proposal is contrary to the aims of Leeds Core Strategy policies P10 and P12, saved Leeds Unitary Development Plan policies GP5, BD5, N25, LD1, N37 and N37A and the guidance contained within the Neighbourhoods for Living SPG and the National Planning Policy Framework.
- 4) The Local Planning Authority considers that the proposal, by virtue of its failure to meet criterion iii of policy H2 of the Leeds Core Strategy, would represent unacceptable development on non-allocated land. In addition to this in representing development on previously undeveloped or 'greenfield' land, which makes a valuable contribution to the visual, historic and spatial character of the area, the proposal would fail to meet the relevant test of the second part of policy H2. As such the proposal is contrary to the aims of Leeds Core Strategy policy H2 and the guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This application is presented to Plans Panel at the request of Ward Councillor Billy Flynn who has noted that he considers the benefits of the proposal put forward by the applicant would outweigh the concerns which exist. A detailed summary of Councillor Flynn's comments is included at paragraph 6.1 below.
- 1.2 The proposal was the subject of a pre-application enquiry in June 2014 at which time the Council advised the applicant that there was little merit in pursuing the proposal due to the significant planning objections which existed.

2.0 PROPOSAL:

- 2.1 The applicant seeks planning permission to demolish an existing residential dwelling, carry out associated alterations to the adjoining property which will remain, and erect a new detached replacement dwelling with new access and landscaping in a nearby location.
- 2.2 The existing residential dwelling to be demolished is the property at Church View, Arthington Lane. The demolition works will necessitate alterations to the adjoining property to the north at Jasmine Cottage to make good what will become the new outer wall of that property. The roof of Jasmine Cottage will also be reinstated to match the existing roof and two new windows will be inserted in the side elevation. The site of the demolished building will then be landscaped to form a private garden area with new parkland areas created to the rear of Jasmine Cottage. A new section of stone wall will be erected to infill the gap left by the removal of Church View on the boundary with Arthington Lane. This wall will be of the same height (approximately 1.5m) as the existing section of wall.

- 2.3 The new dwelling will be constructed on a currently undeveloped or 'greenfield' site within the Arthington Park grounds approximately 25 metres to the north west of where the existing building at Church View sits. The new dwelling will be two storey in height and constructed in natural stone with a natural slate roof. The dwelling will measure 5.8m in width and 12.8m length, have a total floorspace of 149m² (6m less than the existing property at Church View), and include ashlar stone heads and cills with dormer windows to the front and rear. The new dwelling will be set in a landscaped private garden and bordered by a stone wall and railing combination. The vehicular access to the dwelling will be off the existing access track serving Church View and Jasmine Cottage and will serve a new hardstanding area with associated outbuildings.
- 2.4 The proposal will involve the diverting of the existing access track to the cricket field and pavilion to the east of the application site. New tree planting is proposed at various locations in close proximity to the development.

3.0 SITE AND SURROUNDINGS:

- 3.1 Church View is a two storey stone built property of gothic design built in the 19th century. The property has a natural slate roof with gable features and chimneys and abuts the footpath running alongside Arthington Lane to the south. The neighbouring property at Jasmine Cottage adjoins the application property to the north. The two properties fall within the historic parkland curtilage of the Grade II listed Arthington Hall and the properties are considered to be curtilage listed buildings. Both properties include modest landscaped gardens to the east side and are served by an existing vehicular access from Arthington Lane. The vehicular access point also serves neighbouring properties to the west and the Arthington Cricket Club ground to the north east of the two properties.
- 3.2 The site of the proposed new dwelling is currently parkland falling within the grounds of Arthington Hall. The land is open grassland punctuated by mature trees. The immediate stretch of Arthington Lane includes a number of buildings to both sides, including the Grade II listed buildings at St. Peters Church and The Grange, which both fall to the south side of Arthington Lane.
- 3.3 The existing dwellings, parkland and Arthington Hall all fall within the Leeds Green Belt. The site is also a Special Landscape Area as designated by saved policy N37 of the Leeds Unitary Development Plan.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 Pre-Application PREAPP/14/00531
The applicant submitted a pre-application enquiry in June 2014 for a broadly similar proposal to that now submitted for a replacement dwelling. The applicant was advised in response to the enquiry that the proposal had very little merit due to significant concerns in relation to the impact on the character and openness of the Green Belt and the loss of the existing Church View building. Concerns were also raised in relation to the impact on the designed Special Landscape Area.

5.0 COMMUNITY CONSULTATION:

- 6.1 None.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been publicised by means of site notice and an advert in the local press. Ward Councillor Billy Flynn has requested that the application be determined at Plans Panel noting:

- Planning officers have not given sufficient weight to the evidence of the applicant to support the proposal;
- The present building needs essential and extensive renovation to bring it up to acceptable standards which will result in a property that may be undesirable to future occupants;
- The most cost effective solution is to demolish and rebuild the property;
- The new building will not be materially larger than that which it will replace;
- The applicant has put forward a case that Church View should not be considered to be a curtilage listed building;
- The design and materials of the new dwelling are sympathetic to the area and will result in a building which will add heritage value to the site;
- The proposal will provide for new greenspace which will enhance the site;
- Noise and damp as a result of the nearby highway are significant problems for any occupants of the existing dwelling; and,
- The existing property results in poor visibility for vehicles using Arthington Lane and its demolition will provide for a better line of sight.

6.2 Three local residents have written in support of the scheme noting:

- The existing house looks odd, ugly and out of place and the proposal will improve the appearance of the remaining property;
- The existing house is too close to the road; and,
- The existing noise levels in the house are likely to be poor for occupants.

7.0 CONSULTATION RESPONSES:

7.1 Conservation – OBJECTION: The existing property contributes to the historical and aesthetic value of Arthington Hall and thus to the significance of the heritage asset (i.e. the listed buildings) as a whole. There is no suggestion that the demolition of the existing property would secure the optimum viable use of the heritage asset as a whole and the replacement of the existing property for the reasons put forward cannot be considered to be a public benefit.

7.2 Ecology – Whilst the existing building has a low potential for roosting bats, a further survey or bat activity between May and September should be carried out prior to determination of the planning application.

7.3 Highways – No objections subject to appropriate conditions.

7.4 Contaminated Land – No objections subject to appropriate conditions.

7.5 Drainage and Flood Risk – No objections subject to appropriate conditions.

7.6 Sport England – No objections.

8.0 PLANNING POLICIES:

8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan currently

comprises the adopted Local Development Framework Core Strategy (2014), those policies saved from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Local Plan.

The Local Development Framework **Core Strategy** was adopted by the Council on 12th November 2014. The following policies contained within the Core Strategy are considered to be of relevance to this development proposal:

General Policy – Sustainable Development and the NPPF
Spatial Policy 1 – Location of Development
Spatial Policy 6 – The Housing Requirement and Allocation of Housing Land
Policy H2 – Housing on Unallocated Sites
Policy H3 – Density of Residential Development
Policy H4 – Housing Mix
Policy P10 – Design
Policy P11 - Conservation
Policy P12 - Landscape
Policy T2 – Accessibility and New Development
Policy EN1 – Climate Change
Policy EN2 – Sustainable Design and Construction
Policy EN5 – Managing Flood Risk

8.2 The most relevant saved policies from the **Leeds Unitary Development Plan** are outlined below.

GP1 - Land Use and the Proposals Map
GP5 - Development control considerations including impact on amenity
BD5 - Design of new buildings
N25 - Site boundaries
N32 - Development in the Green Belt
N33 - Development in the Green Belt
N37 - Special Landscape Areas
N37A - Development and Change in Land Use within the Countryside
LD1 - Landscape design
T7 - Cycle and Motorcycle Parking
H3 - Housing Land Supply

8.3 Relevant **supplementary planning documents and policies** are outlined below:

- Neighbourhoods for Living SPG (December 2003)
- Street Design Guide SPD (August 2009)
- Sustainable Design and Construction SPD (August 2011)
- Natural Resources and Waste Development Plan Document (January 2013)
- Parking SPD (January 2016)

8.4 The **National Planning Policy Framework** (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- (1) Amenity Issues noted by the Applicant;
- (2) Green Belt;
- (3) Design, Character and Special Landscape Area;
- (4) Impact on Designated Heritage Asset;
- (5) Non-Allocated Land;
- (6) Impact on Bats;
- (7) Highway Safety, Parking and Bin Storage;
- (8) Residential amenity;
- (9) Permitted Development;

10.0 APPRAISAL:

1. Amenity Issues noted by the Applicant

10.1 Church View was occupied by tenants until December 2015 since which time it has remained vacant. The applicant has expressed concern that the property will be difficult to let due to its current location. No information has been provided in support of the application to suggest that this has proved to be the case after a period of marketing and as such little weight should be afforded to such an argument. It is however recognised that the property does suffer from a number of factors which are to a greater or lesser degree related to its current location and its lack of renovation over the years and which could put off future tenants if not addressed.

10.2 The applicant recognises in the planning application submission that the property is not, at present, "un-occupiable". It is noted that the primary reason put forward by the applicant for the current proposal is to "improve the residential amenity of future tenants living in the new house [over the level of amenity that would be achieved from future tenants living in Church View]". The proposed benefits of the application in these respects are discussed below.

Noise

10.3 Church View suffers from traffic noise and vehicle vibration, particularly from Heavy Goods Vehicles (HGV's) due to its close proximity to Arthington Lane. Indeed the applicant has submitted a noise assessment in support of the application which demonstrates a calculated noise level in excess of the recognised limits. It is noted that this would also be the case for the new property proposed, albeit to a lesser degree due its proposed positioning 25m further away from Arthington Lane. In order to bring noise levels to an acceptable level inside the current property at Church View the noise assessment submitted suggests a number of measures would be appropriate including sound insulation, replacement of windows with double or secondary glazing and mechanical ventilation. The noise assessment concludes that whilst a noise barrier could be erected to mitigate the noise levels experienced in the garden of Church View this would fail to bring noise levels to the recognised acceptable level for outdoor amenity areas.

10.4 It is noted that these same noise mitigation measures would also need to be employed in relation to the new property proposed and whilst these measures would ensure noise levels within the new property and its garden areas meet the recommended limits, it is recognised that some of the garden areas of this property would still be likely to suffer from noise levels, albeit lesser than those experienced from the garden of Church View, above the recommended lower limit.

10.5 It is clear that the proposed new property and garden, with noise mitigation measures to be installed at the time of construction, will have a greatly improved level of amenity for future occupiers over the situation as it presently exists at

Church View, i.e. without any noise mitigation measures being installed in the current property, in terms of noise and vehicle vibration. It is further recognised that the level of amenity from the new property and garden would also represent an improvement over the situation created if the proposed noise mitigation measures were to be installed at Church View. As such, both scenarios would represent an improvement to the amenity of occupiers in terms of noise and disturbance.

- 10.6 It is noted that the applicant has concluded as part of the planning submission that the installation of noise mitigation measures at Church View would be unfeasible. Whilst it is recognised that noise mitigation in the garden area of Church View would not achieve noise levels within recommended limits (as is also likely to be the case for the existing property at Jasmine Cottage which is proposed to be retained) and so could be argued to be 'unfeasible' in this respect, it is unclear as to why this would be unfeasible within the property itself given the solutions offered by the applicant's own noise engineer. It is noted that no further justification has been submitted by the applicant to support this assertion and as such little weight should be attached to the conclusion of the applicant in this respect.

Damp and Poor Insulation

- 10.7 Church View suffers from damp and poor insulation. This is supported by testimony from the previous occupants. The applicant has also noted that the property has an increased vulnerability to fungal attack and the concomitant degrade related to damp issues. Whilst noting that the property is not at present, in the words of the applicant, "un-occupiable", the applicant has noted that works to fully address these damp and insulation issues would require extensive works within the property. These works would be likely to include internal installations which would reduce internal floor areas of rooms within the property, some to such an extent as to make the existing layout impractical. It is unclear from the applicant's submission as to which rooms would be affected within the property or whether alternative internal layouts have been explored. Whilst such works are also likely to have cost implications for the applicant it is noted that no case has been put forward on the grounds that this would be financially unviable. As such whilst such problems inevitably exist and would need to be addressed, it is not considered that problems of damp and poor insulation should be given significant weight as a factor in favour of the scheme in the absence of an overriding justification as to why these problems couldn't be adequately addressed, for example with a revised layout.

Amenity of the Occupiers of Jasmine Cottage

- 10.8 The demolition of Church View will improve residential amenity for the existing and future occupiers of Jasmine Cottage in a number of respects. The insertion of two new windows to the south side of the property will improve daylight and sunlight penetration into the property and provide an improved outlook for the current and future occupiers. The loss of a neighbouring property in such close proximity, which includes views from windows and garden areas that currently overlook the private garden areas of Jasmine Cottage, will also create a greater sense of privacy for the occupiers of Jasmine Cottage.

2. Green Belt

- 10.9 The application site is located within the Green Belt. As outlined within the National Planning Policy Framework (NPPF) the essential characteristics of Green Belt are their openness and permanence. Paragraph 88 states that "when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt".

- 10.10 The first test to apply to the proposal is whether the proposal represents 'inappropriate development' in the Green Belt. Paragraph 87 of the NPPF states that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 89 of the NPPF notes that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions. One such exception is "the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces". Saved Leeds UDP policy N33 also notes a number of exceptions where development in the Green Belt may be appropriate including the "limited replacement of existing dwellings".
- 10.11 The proposal put forward is for a new dwelling to be situated 25m away from the existing Church View property which is proposed to be demolished. Neither the NPPF or saved UDP policy N33 states that a replacement building should be in the same location as that of the building which is proposed to be replaced. Indeed it has been accepted previously that replacement buildings can be sited in a different location within a site and still meet the definition of a replacement building. The proposed building will be in the same use as the existing building and will not be materially larger than the one it replaces. As such the proposal can be considered to be satisfying the exceptions noted above.
- 10.12 Given the proposal is considered to meet the aforementioned exceptions of paragraph 89 and saved UDP policy N33, the proposal must be assessed in terms of its impact on the openness and/ or character and appearance of the Green Belt. As noted above the essential characteristics of Green Belt are their openness and permanence.
- 10.13 The existing dwelling at Church View forms one of two adjoining cottages alongside the neighbouring Jasmine Cottage. The character of the locality is distinctly rural with dwellings relatively sparsely punctuating open spaces along Arthington Lane. Church View is one of a number of properties which has a residential plot hard up to Arthington Lane in a pattern of development which has largely existed since the mid 19th century. Indeed historical maps show two dwellings at the application site since 1849. The development would run contrary to this pattern of development by creating a new dwelling which encroaches in to a currently undeveloped piece of open parkland away from other properties on Arthington Lane which following the aforementioned pattern of development. The development would also create two visually separate structures, with associated gardens, driveways and ancillary structures, laid out over a larger area as opposed to the one structure and adjoining gardens which are viewed as a single development at present in this particular location. This will not only represent an encroachment of development into the parkland setting of Arthington Hall which currently consists of undeveloped, open grassland punctuated by mature trees, including through the relocation of the access track to the Cricket Ground, but will also disrupt a form of development that has existed for over 150 years at the site leading to the creation of a courtyard style development which is not reflective of other development in the area.
- 10.14 It is considered that the aforementioned factors would be significantly harmful to the openness, character and appearance of the Green Belt in this location. Furthermore it is considered that the proposal would be harmful to one of the five purposes of the Green Belt as outlined in paragraph 80 of the NPPF in that it would fail to assist in safeguarding the countryside from encroachment, which this development would clearly represent. As noted above, substantial weight should be attached to this harm. The proposal is therefore considered to be contrary to the wider aims of the National Planning Policy Framework and saved Leeds UDP policy N33.

3. Design, Character and Special Landscape Area

- 10.15 The character and appearance of the locality is described above in section 2, as are the reasons why it is considered the development is contrary to this character and appearance. The proposal to create a new dwelling positioned away from the existing residential plots abutting Arthington Lane, which represents an encroachment in to the parkland setting of Arthington Hall, is considered to be harmful in these respects.
- 10.16 Notwithstanding the above it is recognised that the general appearance and detailing of the proposed new dwelling is in-keeping with the dwelling which is proposed to be retained at Jasmine Cottage. The new dwelling will be constructed of natural stone and slate and incorporate architectural features sympathetic to the area. New boundary walls will also be of a similar appearance to those existing and new tree planting will supplement the trees existing at the site. These are positive features of the development, albeit not outweighing the wider harm noted in paragraph 10.15 above.
- 10.17 The application site also falls within a Special Landscape Area as designated by saved UDP policy N37. The UDP notes that Special Landscape Areas include countryside of high landscape value which needs to be protected from visually harmful development and improved where necessary to safeguard its attractive character and appearance. The parkland setting of Arthington Hall is undoubtedly of high landscape value and as noted in section 2 above is distinctly rural in character.
- 10.18 It is considered that the proposed development, in creating a new dwelling which encroaches into the aforementioned parkland setting, and which would block views of the parkland beyond when viewed from Arthington Lane, would detract from the character and appearance of the wider landscape. As such the proposal would be contrary to the aims of saved UDP policy N37 which requires development to be sympathetic to its setting. In representing encroachment of built development into the currently open parkland, and a change of use of this land in the process, the proposal would also be harmful to the wider countryside setting contrary to the aims of saved UDP policy N37A which requires development to have regard to the character of a landscape and maintain particular features which contribute to this.

4. Impact on Designated Heritage Asset

- 10.19 The Sites and Surroundings section of this report notes that Church View falls within the historic parkland curtilage of the Grade II listed Arthington Hall and as such the property can be considered as a curtilage listed building. The applicant has disputed that this is the case and it is therefore appropriate to outline why officers have come to this view before discussing the merits of the proposal in this respect.

Whether Church View is a Curtilage Listed Building

- 10.20 The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 defines listed buildings. Included within this definition is "any object or structure within the curtilage of the [listed] building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948". The definition of 'curtilage' in this respect is not set out in either planning policy or guidance and as such is a matter of interpretation. In coming to a view on whether Church View constitutes a curtilage building officers have considered relevant case law examples.
- 10.21 The applicant has stated that they do not consider Church View to be a curtilage listed building as (1) Church View and Jasmine Cottage were not added to the

statutory listed building list in 1988 when several buildings and structures relating to Arthington Hall were added, (2) the two buildings have been historically separated from the wider parkland by a wall and ha-ha, and (3) the two buildings have direct access from Arthington Lane outside of this park wall. They note that their conclusion is supported by the fact that the Council has not previously required listed building applications for works to these properties.

- 10.22 In relation to the first point noted above, case law, namely Attorney General ex rel Sutcliffe Rouse and Hughes v Calderdale Borough Council 1983 ("Sutcliffe 1983"), has established that even those buildings not expressly listed under previous listings can still be considered 'listed' if these buildings are within the curtilage of a listed building. In relation to the second and third points put forward by the applicant it is not considered that the presence of a wall and/or the ha-ha would demonstrate that Church View and Jasmine Cottage do not fall within the curtilage of Arthington Hall. Indeed, the applicants own submission notes that the role of the ha-ha was to "provide physical separation between the grand house of Arthington Hall and the parkland and the outer parts of the estate, in order to keep animals out from around the Hall" rather than any separation of curtilages.
- 10.23 The Sutcliffe case provides further assistance in coming to a view on these matters. The Sutcliffe case concluded that it would be hard, if not impossible, to argue in that instance that a listed mill building and cottages occupied by workers of the mill, which fell under the same ownership, did not fall within the same curtilage at that time. At the Court of Appeal Lord Justice Stephenson concluded that history and subsequent fragmentation of ownership could not alter these facts and that one was in the curtilage of the other for the purposes of interpreting the 1990 Act. The information provided by the applicant and that available to the Council in the form of historical maps and records for the current application demonstrate that two buildings were present at the site of Church View and Jasmine Cottage in 1849. Records from the sale of the Arthington Hall estate in 1850 demonstrate that the buildings were occupied by the then Gamekeeper of the Arthington Hall estate and were sold as part of the estate under a single ownership at this time. As such these buildings were clearly functionally and physically linked to Arthington Hall in 1850 in a manner similar to that of the Sutcliffe example.
- 10.24 Historical maps from 1875 show buildings in the same location some 25 years later. The applicant has argued that it appears the buildings present in 1850 were demolished, replaced with replacement buildings in the same location sometime before 1875, and that it is these buildings which now exist at the site. It is acknowledged that the two maps show variations in terms of the size and layout of the buildings at the site, however it is difficult to ascertain conclusively that these are not substantially the same, albeit perhaps altered, buildings. It is also noted that no information has been put forward by the applicant which would conclude the ownership of the buildings changed or that they ceased being used in connection with each other between 1850 and 1875.
- 10.25 In the absence of any such evidence it is concluded, on the balance of the evidence available, that the physical and historical links between Church View and Arthington Hall would strongly suggest that Church View is a curtilage listed building. It is not considered that the failure of the Council to require listed consent for previous works would outweigh this view.

Demolition of Church View

- 10.26 The Town and Country Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to have special regard to the desirability of

preserving a listed building, its setting, or any features of special architectural or historic interest which it possesses. Saved UDP policy N14 states that "consent for the demolition of a listed building will be permitted only in exceptional circumstances and with the strongest justification".

- 10.27 Church View is a positive building in its own right, displaying examples of gothic architecture constructed in traditional local materials, and occupies a prominent location on Arthington Lane in close proximity to a number of other listed and non-listed buildings which are important to the character of the area including the Grade II listed St. Mary and St. Abanoub Coptic Church on the south side of Arthington Lane. For the reasons outlined above Church View is considered to be a curtilage listed building within the curtilage of the Grade II listed Arthington Hall. The principal consideration concerning the demolition of Church View in this respect is the impact on the heritage asset (i.e. the Grade II listed building Arthington Hall and all its curtilage buildings) as a whole. Church View makes a positive contribution to the historical and aesthetic value of Arthington Hall and thus to the significance of the heritage asset. The demolition of Church View would therefore not only result in the loss of a positive building in its own right but would be harmful to the heritage asset. In terms set out by the NPPF the harm created would be 'less than substantial'. Paragraph 134 of the NPPF advises where this is the case the harm "should be weighed against the public benefits of a proposal, including securing its optimum viable use". The applicant has noted a number of benefits of the proposal including those relating to amenity noted in section 1 above. However, these would not represent public benefits.
- 10.28 One public benefit of the proposal which the applicant has put forward is that the removal of the building would improve visibility for HGV drivers on Arthington Lane. Whilst the applicant hasn't submitted any supporting evidence in this respect it is noted that the removal of the building is likely to improve visibility for HGV drivers who are seated high enough within a cabin to have views over the boundary wall which would be retained at the site. Because of the presence of this wall the proposal would not result in improved visibility for road users in cars or cyclists. It is not considered however that the benefit to HGV drivers would be so significantly as to outweigh the harm created to the heritage asset in this instance and as such would not serve as justification to demolish Church View.
- 10.29 In conclusion it is considered that the harm created to the heritage asset as a whole through the loss of Church View would not be outweighed by any public or other benefits put forward by the applicant. As such the proposal would be contrary to the aims of the NPPF, policy P11 of the Leeds Core Strategy, saved policy N14 of the Leeds UDP and the relevant legal test.

Impact of Replacement Building

- 10.30 In addition to the above the impact on the heritage asset of the new building must be considered. It is not considered that the new dwelling would be harmful in this respect.

5. Non-Allocated Land

- 10.31 The application site can be considered to be non-allocated land as defined by policy H2 of the Leeds Core Strategy. The site is not included as a proposed site for housing in the draft Leeds Site Allocations DPD. Policy H2 sets out criteria for new housing development on non-allocated land. In respect of the implications for impacts on the capacity of transport, educational and health infrastructure the proposal will not lead to an increase in the number of dwellings over that existing and so can be considered to comply with the general aims of this part of the policy.

However, for the reasons noted in section 2 above the proposal would not satisfy Green Belt policy and therefore would fail the relevant test of policy H2.

- 10.32 Further to the above policy H2 also sets further criteria for the development of greenfield or previously undeveloped land. The proposed siting of the new dwelling, associated garden, driveway and ancillary structures, falls within greenfield land. Policy H2 states that greenfield land "should not be developed if it has intrinsic value as amenity space or for recreation or for nature conservation, or makes a valuable contribution to the visual, historic and/ or spatial character of an area". For the reasons set out in full in sections 2, 3 and 4 above the proposal would be harmful to visual, historic and spatial character of the area and as such would be contrary to the aims of policy H2 in this respect.

6. Impact on Bats

- 10.33 All bat species and bat roosts are legally protected under the Wildlife and Countryside Act (1981). The application site falls just outside the boundary of one of the Council's Bat Alert areas where bats are known to be present. In addition to this a known bat roost is present at a nearby neighbouring property. The existing buildings have low potential for roosting bats. The bat report submitted by the applicant states that a further bat survey should be carried out at the property to inspect potential bat roosting features. This should normally be carried out prior to the determination of the application. However, if members of Plans Panel are minded to determine the application in accordance with the officer recommendation, i.e. to refuse the application, it is considered unreasonable to delay issuing this decision given the number and nature of the reasons for refusal proposed by officers, as such a survey could be reasonably carried out prior to the applicant submitting any appeal to the Planning Inspectorate. If members of Plans Panel are minded to approve the application however it would be recommended to delegate the determination of the application to the Chief Planning Officer subject to a bat survey finding no evidence of bat activity or roosts being carried out within a reasonable period of time.

7. Highway Safety, Parking and Bin Storage

- 10.34 The proposal will provide for sufficient car parking arrangements to serve the new development proposed and will be served from the existing access track from Arthington Lane. Secure bin and cycle stores are proposed within the site and are considered acceptable. Subject to planning conditions relating to detailing, the arrangements are considered acceptable and will meet the requirements of Leeds Core Strategy policy T2, saved UDP policies T7 and T24, the NPPF and the Street Design Guide SPD.

- 10.35 The proposal will also provide, through the repositioning and realignment of the existing access road, for acceptable vehicular access to the Arthington Cricket ground.

8. Residential Amenity

- 10.36 Section 1 of this appraisal notes that the proposal will lead to an improvement to the residential amenity of the neighbouring property at Jasmine Cottage. Further to this it is considered that the new dwelling created will also benefit from acceptable levels of amenity in terms of daylight and sunlight penetration, privacy and outlook. The size of the dwelling and garden areas will also afford for a good level of amenity for future occupiers. As such whilst it is noted that the new dwelling is still likely to suffer some impacts in relation to noise from traffic on Arthington Lane from some of its garden areas, it is considered that, on the whole, the proposal will improve residential amenity for current and future occupiers of both properties and will be in-

keeping with the aims of Leeds Core Strategy policy P10, saved UDP policy GP5, the NPPF and the Neighbourhoods for Living SPG in these respects.

9. Permitted Development

- 10.37 It was been established through a recent appeal decision in Leeds that the Council acted unreasonably in removing permitted development rights for a replacement dwelling in the Green Belt. The reasoning behind this was that in allowing a new planning unit to be created, such as would be the case for the proposed development, this new planning unit should start life with a 'fresh' planning history. This forms a material planning consideration relevant to the current application given the increased potential for the two dwellings created (due to their detached nature) to accommodate larger extensions under the current permitted development allowances than would be the case at present (i.e. for the two existing semi-detached cottages). Whilst permitted development rights may be subject to change in the future, the current situation would allow considerable extensions to both properties if planning permission were to be granted. This would be likely to have a further harmful impact in respect of those concerns noted in sections 2 and 3 of the above appraisal.

12.0 CONCLUSIONS

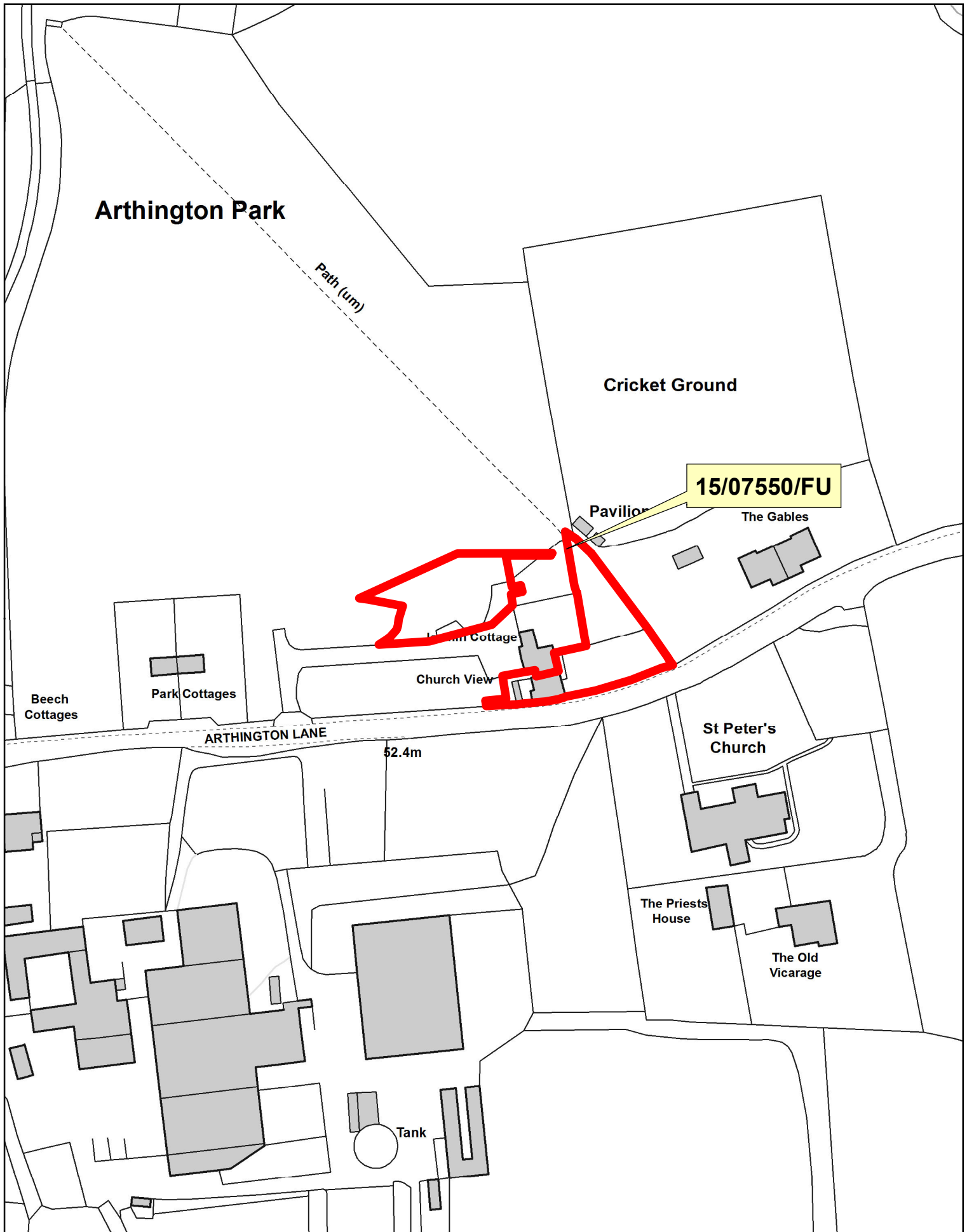
- 12.1 The existing property at Church View suffers from a number of amenity related issues including noise and disturbance from passing vehicular traffic due to its close proximity to Arthington Lane and damp and poor insulation. The creation of a new detached dwelling within the parkland of Arthington Hall to replace the existing property at Church View will lead to improved residential amenity for both future occupants of the new dwelling and the current and future occupants of Jasmine Cottage. The removal of the existing dwelling is also likely to lead to improved visibility for HGV drivers along the immediate stretch of Arthington Lane.
- 12.2 The new dwelling is of an appropriate design and style and will be constructed in high quality materials to match those of neighbouring properties. The new dwelling will be served by the existing vehicular access which is fit for this purpose and is unlikely to lead to any material increase in trips to and from the site allowing for adequate car parking and servicing arrangements to be provided. The site of the existing dwelling will also be returned to private garden with new areas of parkland created to the east of Jasmine Cottage. New tree planting is also proposed to complement the proposed development.
- 12.3 However the proposal raises a number of significant concerns. The application site, including the proposed siting of the new dwelling, falls within the Leeds Green Belt. Whilst the proposal can be considered to be a replacement building and is not materially larger than the building it will replace, the siting of the new building, in previously undeveloped parkland, will be significantly harmful to the openness, character and appearance of the Green Belt in this location and represent an encroachment of built development in to the Green Belt contrary to one of the five purposes of the Green Belt as identified by the NPPF. The NPPF states that substantial weight should be attached to this harm.
- 12.4 The development would also be harmful to the special character of the landscape which is identified as positive through its designation under saved policy N37 of the Leeds UDP and represent a change of use of the land which would be harmful to the wider countryside setting contrary to the aims of saved UDP policy N37A.

- 12.5 Furthermore the proposal would involve the demolition of a positive building displaying positive architectural features and making a positive contribution to the character of this part of Arthington. Church View also benefit from a protected status as a curtilage listed building within the historic parkland curtilage of the Grade II listed Arthington Hall due to its physical and historical links. The demolition of a building which makes a positive contribution to the historical and aesthetic value of Arthington Hall would be harmful to the heritage asset (i.e. the listed buildings) and this harm would not be outweighed by any public benefits as required by paragraph 134 of the NPPF. The proposal would therefore be contrary to the aims of the NPPF, policy P11 of the Leeds Core Strategy, saved policy N14 of the Leeds UDP and the relevant legal test set out in the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.
- 12.6 In addition to the above the proposal would fail to meet the relevant criteria of Core Strategy policy H2 for new housing on non-allocated sites. It is further noted that the applicant has not put forward a case as to why many of those factors in favour of the proposed new dwelling, in respect of installation of noise mitigation, damp proofing, insulation etc. could not be implemented for the current property at Church View, albeit with the likely need for a revised layout to accommodate some of these improvements.
- 12.7 In conclusion it is considered that those factors weighing against the scheme far outweigh those factors in favour of the scheme. The comments of Councillor Flynn and local residents have been taken into account. However, it is not considered that any points put forward through these representations would outweigh the harm identified. It is therefore recommended that the proposal be refused for the reasons outlined at the beginning of this report.

Background Papers:

Application file;

Certificate of Ownership.



SOUTH AND WEST PLANS PANEL

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