

Planning Committee: 04 February 2014

Item Number: 9

Application No: W 13 / 1745

Town/Parish Council: Rowington

Case Officer: Penny Butler

01926 456544 penny.butler@warwickdc.gov.uk

Registration Date: 13/12/13

Expiry Date: 07/02/14

Chapel Haven, Narrow Lane, Lowsonford, Solihull, B95 5HN

Works to repair and stabilise the brook bank (following erosion caused by flooding), and to protect the bank and property from future erosion when the brook is in flood (partly retrospective) FOR Mr & Mrs Carlile

This application is being presented to Committee due to an objection from the Parish Council having been received.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission subject to the conditions listed.

DETAILS OF THE DEVELOPMENT

The proposal is for works to repair and stabilise the bank of the brook following erosion caused by flooding, and to protect the bank and property from future erosion when the brook is in flood. The works were completed in July therefore the application is retrospective. Steel framed granite stone gabions have been installed following digging out of the bank and extend for 12m along the curving bank, for a distance of 1.5m to 2m from the edge of the watercourse.

The application was submitted with a flood risk assessment and planning, design and access statement. This states that the applicant carried out the works to protect their garage following floods last year which eroded the bank of the brook adjacent to the garage. In response to comments raised under the previous application, the current proposal includes the removal of 14 cubic metres of soil adjacent to the Brook and a further 5.58 cubic metres of the bank on an acute bend in the bank. The soil excavated to carry out the works is to be deposited within the site, behind the tall front boundary hedge along the road, creating a bund at a height of 0.9m.

THE SITE AND ITS LOCATION

The application site consists of a small area of land at the rear of a garage building behind the dwelling known as Chapel Haven. The dwelling is understood to have been converted from a church in the 1930s, and has a gated drive to the side which extends around the side of the house to the garage sited at the rear.

The garage is a minimum of 4m from the bank of the Fox Brook, which forms the rear boundary of the property. There is a substantial side garden on the eastern side of the dwelling.

On the western side of the property stands Wychwood, a dormer bungalow, which has its rear elevation angled towards the applicants boundary, garage and the proposal. There is a substantial conifer hedge on the neighbours boundary close to the house, and low post and rail fencing beyond this at the rear of the applicant's garage. The dwelling forms part of a group of dwellings lying between Narrow Lane to the south, the M40 to the east, and Fox Brook to the north. Lowsonford village lies at the end of Narrow Lane to the west.

PLANNING HISTORY

The property has been the subject of a number of applications for extensions since it was originally converted from a chapel, most recently in 2008 (W/08/0405). In 2003 (W/03/1386) permitted development rights to erect outbuildings were removed from the former paddock at the side of the original curtilage, when this was permitted to be used as residential curtilage. A garage and games room was erected at the rear of the site in 2004 under permitted development rights.

A similar retrospective planning application for the retention of alteration works to the river bank, but with no detailed proposals for flood volume mitigation, was withdrawn in November 2013 (W/13/1349).

RELEVANT POLICIES

- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework (NPPF)

SUMMARY OF REPRESENTATIONS

Rowington Parish Council: Raise objection on the following grounds:

- It is difficult to see any difference between this application and the previous in terms of evidence provided. Therefore the comments previously made by the PC to W13/1349 remain relevant
- The new proposal to excavate a large pit which fills extremely quickly, will be of very little, if any, benefit given the volume and speed of the flow of water during flash flooding
- This water course is not only in a valley, and thus taking water draining from fields either side of the valley but also takes highway surface water at high volume from Narrow Lane (often subject to serious flooding). The water course is also the recipient of a "dump" system of motorway surface water a short distance upstream, following construction of the M40

- It is difficult to see that the objections of the Environment Agency to the previous application have been addressed by the proposed construction of what is in effect a small pond
- The recommendations of WCC Ecology do not appear to have been addressed
- Request that further information and modelling is provided by hydrological experts, plus consultation with Warwickshire County Council in its role as LLFA
- No evidence has been provided to show that the increased risk of flooding to adjacent land and property, as predicted by Ove Arup in their recent report prepared for the applicant, has been addressed – which does not comply with the National Planning Policy Framework and as such, should not be accepted.

Public Response: One letter of objection received raising the following concerns:

- Increased flood risk to surrounding properties and loss of floodplain storage
- Retrospective permission has been approved for other engineering works upstream in recent years which have affected porosity and run off to the functional flood plain
- The actual rise in water levels as a result of the development could be significantly above the predicted 42mm, and neighbours have narrowly avoided water ingress into their property at current levels. An additional 42mm would therefore be significant.
- The risk here is substantial, as evidenced by WDC mapping, current Flood Risk assessments and both national and local policies on flood zones.
- Any further unnecessary engineering works in Flood Zone 3 will increase the flood risk to the properties along Fox Brook.
- WDC have a duty of care and any flooding of properties nearby could result in a substantial claim for costs.
- The excavation of land to act as a balancing pond would be ineffective as it would fill in seconds when at flood flow rates. The flooded area and flow rates would then be the same as previously with a narrowed flood channel adjacent to the gabions that would restrict flow, back up water and increase the height of upstream flood water
- The issue is a result of a poorly sited garage. The solution would be an exchange of land with the opposite bank owner and the subsequent straightening of the stream and widening of the channel where it has recently been restricted to restore former flow rates

Environment Agency: No objection subject to a condition requiring mitigation measures in accordance with the submitted details, to secure the removal of 14 cubic metres of soil and relocation to a bund identified on the submitted drawings, and the excavation of 5.58 cubic metres adjacent to the bank. They also make recommendations concerning biodiversity improvements that would be desirable to improve the ecological and habitat value of the gabions forming the bank. It is noted there is a likely unauthorised weir in the stream outside the application site that should be removed, and this will be pursued by the relevant body.

Health & Community Protection: No objection.

WCC Ecology: The application site lies within the boundaries of an Ecosite and Local Wildlife Site, which is known to support otter and white-clawed crayfish. If works had not been already carried out a Phase 1 Habitat Survey and otter, water vole and white-clawed crayfish surveys, would have been required prior to determination, as well as conditions to protect the watercourse and trees. As the works carried out have destroyed part of a Local Wildlife Site it is recommended that consideration is taken to compensate for the loss of wildlife habitat by condition. Please note that should any subsequent works be necessary for this application these must be carried out with guidance from the Environment Agency, assuming that protected species are not impacted on as a result of these works.

Assessment

Impact on visual amenity and neighbouring amenity

The proposed works to the bank and the soil deposition are engineering operations. It is considered that the works do not harm the openness of the area so they are not inappropriate development in the Green Belt, and comply with paragraph 90 of the NPPF. The works have changed the appearance of the bank from a natural grassed bank to an engineered wall of stone blocks with gravel top, and have also raised the previously existing levels slightly. The works are not visible from the road and only from a small area of the neighbours property, whilst the bank on the opposite side of the Brook rises in level restricting views of the site from the north. The visual impact of these works, given their limited area and location at the rear of an outbuilding, adjacent to the landscaped bank, is not significant on the character of the wider area, and vegetation will eventually colonise the blocks to soften their appearance slightly. Policy DP1 requires the use of appropriate materials and development to achieve good layout and design. Given their location, the materials are not considered harmful and their design and layout is therefore considered to comply with Policy DP1.

The conifer hedge on the neighbours boundary screens views of the proposal from the neighbouring dwelling, but the works are visible from the end of their garden and from land on the other side of the Brook which the neighbour owns. The proposal would not lead to significant harm to this neighbours amenity as they would not lose light, privacy or outlook as a result of the works. The works therefore comply with Policy DP2.

Impact on flood risk and ecology

Paragraph 103 of the NPPF requires that Local Planning Authorities ensure flood risk is not increased elsewhere, whilst paragraph 188 requires Local Planning Authorities to aim to conserve and enhance biodiversity and to refuse planning permission if significant harm resulting from a development cannot be avoided, adequately mitigated or, as a last resort, compensated for. Policy DP3 of the Warwick District Local Plan 1996-2011 only permits development which protects or enhances local ecology. Policy DAP3 strongly resists development which will destroy or adversely affect sites subject to a local ecological designation unless

benefits are demonstrated to outweigh the ecological importance of the area, and requires consideration be given to mitigation and compensatory measures.

The works lie within Flood Zone 3 of the Fox Brook, on the edge of the watercourse where any works have the potential to effect water flows and where any new proposals will reduce flood plain storage volume, and increase the risk of flooding to third party land. The Council's engineer has carefully considered the impact of the works on the dynamics of water flows and considers that there will be a minimal impact, and the proposal is therefore acceptable in this respect. The current application includes a proposal to excavate an equivalent amount of volume from the flood plain, adjacent to the Brook, to compensate for the works which have been carried out and have added this volume into the flood plain. The proposal would therefore not reduce the capacity of the flood plain. In flood risk terms therefore there is no justification for refusal.

In terms of ecological impact, the Environment Agency and WCC Ecology have carefully considered the impact that the proposed works have had on the habitat, and options to mitigate or compensate for this. The NPPF (para.118) states that where significant harm resulting from development cannot be avoided, then this should be mitigated or, as a last resort, compensated for. Paragraph 109 also states that the planning system should, where possible, provide net gains in biodiversity. It is considered reasonable to require the applicant to carry out habitat improvement measures in order to compensate for the loss of the habitat as a result of the work, but it is not considered that the existing gabions could be improved to the extent that this alone would be sufficient. A condition is therefore recommended to require suitable and sufficient habitat and biodiversity improvement measures to the Brook, which would be authorised by the Environment Agency and WCC Ecology. This would ensure compliance with Local Plan Policies DP3, DAP3 and the NPPF.

Health and Well-Being

The protection of the property in question from flooding will have a positive effect on the health and well-being of its occupants.

Summary/Conclusion

It is considered that the development would not adversely impact on flood risk, harm the visual amenity of the area, the amenities of neighbouring properties, or result in unacceptable ecological harm and that the development complies with the policies listed.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan, approved drawings and documents (4290-50, 4290-142-A, 4290-51 Rev. B, Flood Risk Assessment for Haskers Architects Ltd 'Bank Stabilisation Works at Chapel Haven, Lowsonford' Ref: FRA/0001 Job Number 71655-00), and specification contained therein, submitted on 13 December 2013.

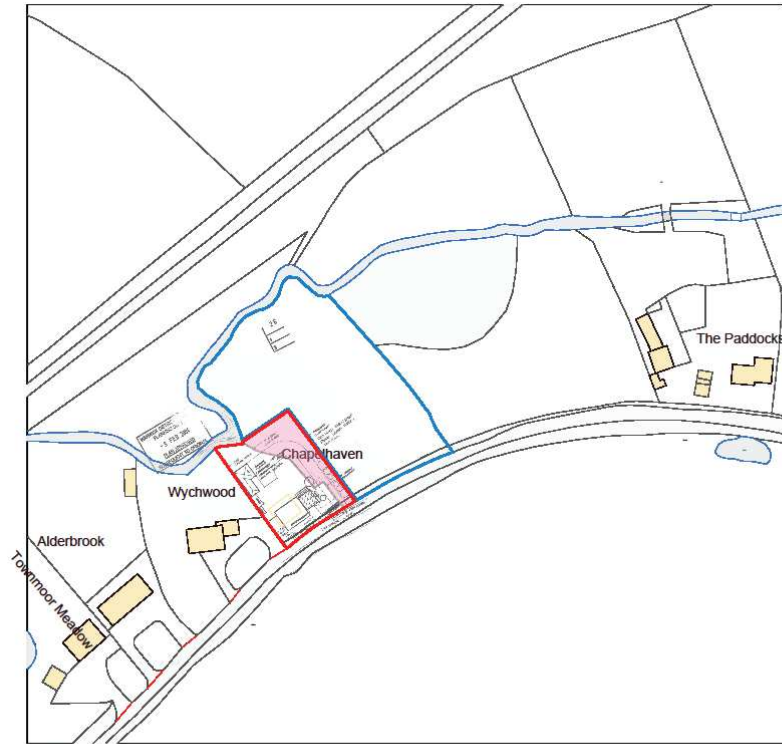
REASON : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 2 Within three calendar months from the date of this permission, a habitat and biodiversity improvement scheme shall be submitted to and approved in writing by the Local Planning Authority and such scheme shall then be implemented in its entirety within two calendar months of such approval, and be retained as such at all times. The scheme shall include measures to improve the habitat and biodiversity of the Fox Brook, in accordance with the Environment Agency letter dated 17 January 2014. **REASON:** To compensate for the harm caused to the habitat and biodiversity of the Local Wildlife Site and Ecosite, in accordance with Warwick District Local Plan Policies DP3 and DAP3 and the National Planning Policy Framework.

- 3 Within four calendar months from the date of this permission, the following works shall both be implemented:

1. A total of 14 cubic metres of soil will be removed and relocated as a bund at the locations and levels specified on Hasker Architects Drawing 4920-50, 'Soil Removal Plan', Dated: 10/2013, to compensate against the loss of flood storage as a result of the erosion protection works/ gabions.
2. An area of 18 square metres will be excavated to an average bank depth of 0.31m at the location and levels specified on Hasker Architects Drawing 4920-51 Rev B, 'Compensatory Measures for installation of gabions', Dated: 10/2013, which will provide an excavation volume of approximately 5.58 cubic metres.

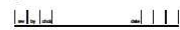
REASON: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants, in accordance with the National Planning Policy Framework.



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NOTES

Subject to survey and further investigation



Mr and Mrs Carlie
Application to vary a condition
Chapel Haven, Narrow Lane
Lowsonford, B95 5HN

Hasker Architects Ltd

1022 High Street, Knaresborough, North Yorkshire, YO6 0JZ
Telephone: 01534 775118 Fax: 01534 775120
Email: info@haskerarchitects.co.uk

Drawing No:

Site location plan

Scale	Date	Drawn	Check
1/1000 @ A3	July 2013		
4200	111		

Photographs of completed stabilisation works

Taken on 14th August 2013, the approximate position of the viewpoints is shown on drawing 4290/142.

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NOTES



Photograph P1
looking north



Photograph P2
looking north east



Photograph P3
looking west



Photograph P4
looking south



Photograph P5
looking south west



Photograph P6
looking north west

project
Mr and Mrs Carlie
Stabilisation of brook bank
Chapel Haven, Narrow Lane
Lowsonford, B95 5HN

Hasker Architects Ltd

15-17 High Street, Kington, Leicestershire, LE11 1JZ
Telephone: 01530 778130 and 01530 778131
Mobile: 01534 778087 e-mail: admin@haskerarchitects.co.uk

Working title
Photographs of completed
bank stabilisation works.

date	drawn	checked
N/A @ A3	September 2013	SH
4290	143	JFB

