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2 January 2022

Customer Services,
Chichester District Council,
East Pallant House,
1 East Pallant,
Chichester
PO19 1TY

Dear Sir / Madam,

COMPLAINT REGARDING PLANNING APPLICATION 21/02059/DOM

This complaint concerns deficiencies in the way that planning application 21/02059/DOM has been dealt with by Chichester District Council in terms of the assessment of the application, validity of the 'Recommendation to Permit' report, and the advice given to Councillors during the Planning Committee meeting held on 8/12/21.

Assessment of Planning Application

Policy 1, paragraph 5.6 of the Chichester Local plan states *"The Rest of the Plan Area, defined as the areas outside defined Settlement Boundaries, is rural in character with many smaller villages, hamlets and scattered development along with open countryside. Therefore, development in the Rest of the Plan Area is subject to greater restrictions and limited primarily to that which requires a countryside location or meets an essential local rural need, supports rural diversification and sustainability of the countryside."*

Mulberry Cottage falls within the 'Rest of the Plan area' and the AONB, and as such the Local Plan requires that any planning application in this area must be assessed against the most demanding standards. National planning policy requires that AONB's be given the highest standards of protection in order to conserve and enhance the landscape and scenic beauty.

Consequently, it is of particular concern that:

- Visual impact of the garage/studio has not been properly assessed, both in terms of its portrayal in the street elevation, nor the position of the building in relation to the front face of Mulberry Cottage;
- No account has been taken of Harbour Conservancy's comment "to reduce the overall impact the depth of the building could be reduced", which formed part of its holding objection.
- It has not been demonstrated that the development will in any way conserve or enhance the natural beauty or locally distinctive features of the AONB; and
- Members of the Planning Committee were not given full, frank and accurate advice during the meeting held on 8/12/21.

Appendix 1 attached hereto identifies where assessment of the planning application falls short of Local Plan requirements.

contd.

Recommendation to Permit report

The report tabled at the Planning Committee on 8/12/21, as well as failing to properly assess compliance with planning policies also contains factual inaccuracies. Please refer to Appendix 2 attached hereto.

Advice given to Councillors during the meeting 8/12/21

Inaccurate and in some cases misleading information and advice was given to councillors during the meeting. Please refer to Appendix 3 attached hereto.

To put matters right, I believe there is overwhelming justification for the planning application to be referred back to the Planning Committee for its consideration of the issues raised in this letter.

Please let me know if you require any further information. I remain ready to assist in the verification of drawing DP105 if that would assist your investigation.

Yours faithfully,

R Jackson

APPENDIX 1 – ASSESSMENT OF THE PLANNING APPLICATION

1. WHERE THE DEVELOPMENT FAILS TO COMPLY WITH LOCAL PLAN REQUIREMENTS

Policy 43	Chichester Harbour Area of Outstanding Natural Beauty (AONB) The impact of individual proposals and their cumulative effect on Chichester Harbour AONB and its setting will be carefully assessed. Planning permission will be granted where it can be demonstrated that all the following criteria have been met: 1. The natural beauty and locally distinctive features of the AONB are conserved and enhanced; 2. Proposals reinforce and respond to, rather than detract from, the distinctive character and special qualities of the AONB; 3. Either individually or cumulatively, development does not lead to actual or perceived coalescence of settlements or undermine the integrity or predominantly open and undeveloped, rural character of the AONB and its setting; and 4. Is appropriate to the economic, social and environmental well-being of the area or is desirable for the understanding and enjoyment of the area (where this is consistent with the primary purpose of conserving and enhancing natural beauty); and 5. The policy aims of the Chichester Harbour AONB Management Plan	• The absence of a reliable street elevation drawing is evidence that the impact of building the garage/studio has not been carefully assessed. • Criterion 1 – building the garage/studio will not conserve or enhance the natural beauty or locally distinctive features of the AONB. • Criterion 2 - The garage/studio will not reinforce and respond to the distinctive character of the AONB. • Criterion 3 - Building the garage/studio will result in coalescence of development and will undermine the undeveloped and rural character of the AONB and its setting. • Criterion 4 - The garage/studio detracts from the environmental well-being of Shipton Green and is not desirable for the understanding and enjoyment of the area. • The garage/studio, by virtue of its position and visual prominence, contravenes the aims of the Chichester Harbour AONB Management plan.
Para 19.21	Areas outside Settlement Boundaries are defined as 'countryside' which includes villages, hamlets, farms and other buildings as well as undeveloped open land. In order to protect the landscape, character, quality and tranquillity of the countryside it is essential to prevent inappropriate development. At the same time, it is necessary to provide for the needs of small rural communities, and enable those who manage, live and work in the countryside to continue to do so.	• The applicant does not manage, live or work in the countryside and hence a garage/studio is not necessary for this purpose.

Para 19.35	Buildings and areas of architectural and historic interest make a valuable contribution to the character of the area; and the historic environment, as a whole, is important for its potential to increase knowledge; its value for leisure, education and tourism; and as a key economic driver. The historic environment is an irreplaceable resource; therefore every effort should be made to ensure appropriate protection and enhancement.	• Shipton Common was part of the Great West Wittering common that stretched across the whole of the Manhood Peninsula, but the Enclosure Act of 1793 diminished that considerably and Shipton Common is the last seven acres of that part of the common still in existence. • Mulberry Cottage and Shipton Cottage are two of the oldest dwellings in the Itchenor. • Building the garage/studio would result in the loss of a gap between Mulberry Cottage that has been in existence for at least 240 years. • Building the garage/studio would detract from the character of Shipton Green.
Para 19.37	Settlements in the District have considerable individual character because of the variations in the physical form and the use of traditional materials. It is important to maintain the separate individual identity and character of different settlements and a clear transition between the urban areas and the countryside. The Local Plan aims to maintain the general settlement pattern by reducing the coalescence of settlements through green infrastructure in maintaining or enhancing the gaps. Any development should respect the character and scale of the existing settlements and make a positive contribution to the quality of the built environment.	• Building the garage/studio would increase coalescence. • The historically significant gap between Mulberry Cottage and Shipton Cottage would be diminished. • It has not been demonstrated that building the garage/studio would make a positive contribution to the quality of the built environment.
Policy 2	Development Strategy and Settlement Hierarchy The development strategy identifies the locations where sustainable development, infrastructure and facilities will be accommodated which in terms of scale, function and character support the role of the settlements outlined below. The settlement hierarchy is shown on the Key Diagram. Sub-regional Centre: Chichester City Chichester city will further develop its role as a sub-regional centre, providing higher and further education and health facilities, and a broad range of employment, retail, entertainment and cultural opportunities, for a	

	wide catchment area extending outside the district. Town centre uses will be supported where they promote the vitality and viability of the city centre. The city will continue to be a focus for major development in the Plan Area, which includes strategic development identified at: Shopwyke and West of Chichester in the form of mixed use urban extensions to the city (see Policies 16 and 15) and at Westhampnett/North-east Chichester in the form of a well-integrated extension of the village and neighbouring residential area in Chichester city. (see Policy 17) Settlement Hubs: East Wittering/Bracklesham, Selsey, Southbourne, Tangmere New development to meet identified local needs will reinforce the role of the Settlement Hubs as centres providing a range of homes, workplaces, social and community facilities (See Policies 18, 20, 23 and 24). Retail development of an appropriate scale will be supported to promote the vitality and viability of East Wittering and Selsey village and town centres and enhance provision at Southbourne and Tangmere centres. Strategic development locations are identified at: Tangmere in the form of a managed well integrated expansion of the village and its facilities (See Policies 18 and 19); Southbourne, Selsey and East Wittering/Bracklesham in the form of medium-scale extensions (See Policies 20 and 23-24). Service Villages: Birdham, Bosham/Broadbridge, Boxgrove, Camelsdale/Hammer, Fishbourne, Hambrook/Nutbourne, Hermitage, Hunston, Kirdford, Loxwood, North Mundham/Runcton, Plaistow/Ifold, Stockbridge, West Wittering, Westbourne, Westhampnett, Wisborough Green. Outside of Chichester city and the Settlement Hubs, the Service Villages will be the focus for new development and facilities. Provision will be made for the following: Small scale housing developments consistent with the indicative housing numbers set out in Policy 5; Local community facilities, including village shops, that meet identified needs within the village, neighbouring villages and surrounding smaller communities, and will help make the settlement more self-sufficient; and	

	Small scale employment, tourism or leisure proposals. Settlement Boundaries There is a presumption in favour of sustainable development within the Settlement Boundaries which will be reviewed through the preparation of Development Plan Documents and/or Neighbourhood Plans, reflecting the following general approach: 1. Respecting the setting, form and character of the settlement; 2. Avoiding actual or perceived coalescence of settlements; and 3. Ensuring good accessibility to local services and facilities. Rest of the Plan Area: Small villages, hamlets, scattered development and countryside Development in the Rest of the Plan Area outside the settlements listed above is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with Policies 45-46.	• The garage/studio will be built in the Rest of the Plan Area outside the settlements. It does not require a countryside location or meet an essential local need or support rural diversification.
Policy 39	Transport, Accessibility and Parking Planning permission will be granted for development where it can be demonstrated that all the following criteria have been considered: 1. All development provides for the access and transport demands they create, through provision of necessary improvements to transport networks, services and facilities, either directly by the developer or indirectly in the form of financial contributions; 2. Development is located and designed to minimise additional traffic generation and movement, and should not create or add to problems of safety, congestion, air pollution, or other damage to the environment; 3. The proposal has safe and adequate means of access and internal circulation/turning arrangements for all modes of transport relevant to the proposal; 4. The proposal encourages development that can be accessed by sustainable modes of transport, in part, through the creation of links between new development and existing pedestrian, cycle and public transport networks;	• Criterion 3 - Access to and egress from the proposed parking / turning area is impeded by the gate and boundary fence. It has not been demonstrated that there is sufficient space for up to eight Airbnb guest cars to be parked, internally circulated and turned.

	5. The proposal provides for safe, easy and direct movement for those with mobility difficulties;	• The staircase to the studio room does not provide safe, easy and direct access for those with mobility difficulties.
Policy 45	Development in the Countryside Within the countryside, outside Settlement Boundaries, development will be granted where it requires a countryside location and meets the essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements. Planning permission will be granted for sustainable development in the countryside where it can be demonstrated that all the following criteria have been met: 1. The proposal is well related to an existing farmstead or group of buildings, or located close to an established settlement; 2. The proposal is complementary to and does not prejudice any viable agricultural operations on a farm and other existing viable uses; and 3. Proposals requiring a countryside setting, for example agricultural buildings, ensure that their scale, siting, design and materials would have minimal impact on the landscape and rural character of the area. Applications for retail development in the countryside will be considered where it has been demonstrated that the appropriate sequential and/or impact assessments have been undertaken. Local/small scale farm shops will be permitted provided they sell goods that have predominantly been produced on the farm.	• Building a garage/studio does not require a countryside location.
Policy 48	Policy 48 Natural Environment Planning permission will be granted where it can be demonstrated that all the following criteria have been met: 1. There is no adverse impact on: - The openness of the views in and around the coast, designated environmental areas and the setting of the South Downs National Park; and - The tranquil and rural character of the area. 2. Development recognises distinctive local landscape character and sensitively contributes to its setting and quality;	• Criterion 1 – the garage/studio will adversely impact the view towards the north from Shipton Green Lane. • Criterion 2 – By virtue of its visual prominence the garage/studio would not contribute to the setting and quality of the environment.

	3. Proposals respect and enhance the landscape character of the surrounding area and site, and public amenity through detailed design; 4. Development of poorer quality agricultural land has been fully considered in preference to best and most versatile land; and 5. The individual identity of settlements, actual or perceived, is maintained and the integrity of predominantly open and undeveloped land between settlements is not undermined	• Criterion 3 - the garage/studio will not respect or enhance the landscape character of Shipton Common. • Criterion 5 – building the garage studio will undermine the integrity of open and undeveloped land between settlements.

2. WHERE THE DEVELOPMENT FAILS TO COMPLY WITH THE ADOPTED JOINT CHICHESTER HARBOUR AONB SUPPLEMENTARY PLANNING DOCUMENT

Para. 15.1	Careful thought should be given to the siting and scale of ancillary buildings so as to avoid impact on neighbouring properties and dominance over the dwelling. The setting should not be intrusive in the landscape or in public views from the land or water.	• Drawing DP105 showing the visual impact of the garage/studio in the street scene has been drawn incorrectly, hence it is not possible to evaluate the view from Shipton Green.
Para 15.2	Garages, car ports and boat houses should be set back from the front face of the building to avoid dominating the street scene and increasing the mass of a house. There should also be at least 6m of space so that a car can pull off the street.	• The garage/studio will not be set back from the front face of Mulberry Cottage (or Shipton Cottage: the nearest dwelling) and will be prominent in the street scene.

3. Following receipt of Genesis Town Planning's letter dated 25/10/21, why was attempt made by Officers to resolve a discrepancy regarding the heights of Shipton Cottage's roof and the proposed garage/studio on drawing DP105 Rev 03?

4. My email to CDC planning dated 5/10/21, asking for assistance with regard to a note on drawing DP102 Rev 03, and suggesting changes to the proposal that could have resulted in a reduction in visual impact, as well as minimising the loss of amenity at my house, was never responded to or the suggested changes ever followed up.

APPENDIX 2 – 'RECOMMENDATION TO PERMIT REPORT'

6.4	Third party objection comments	• There is no mention of my concern that drawing DP105 fails to correctly portray the visual impact of the garage/studio in the street scene. • There is no mention of my concern regarding loss of the amenity of Shipton Cottage • There is no mention of The Itchenor Society's concern that the proposed development undermines the predominantly open and undeveloped rural character of Shipton Green.
7.4	National policy and Guidance (NPPF 2019)	• The extracts are unbalanced: there is no mention of the following relevant paragraph: 176. Great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

8.2	Principle of development "….Since the ancillary building would be located within the garden of the existing dwelling it is considered that the principle of the proposal would comply with the principle requirements of the current development plan, subject to the balanced considerations of the other requirements within the plan and any considerations material to the case.	• The meaning of "balanced considerations of the other requirements within the plan and any considerations material to the case." is unclear. • Notwithstanding the above, critical elements of the Local Plan Key have not been complied with.
8.4	"The West Itchenor Design Statement highlights that the infill of gaps is normally discouraged in order to retain the special character of the area."	• Design Guideline 1 of the VDS actually states that "Further infilling of gaps will be discouraged where this special character would be harmed.
8.4	"Despite the proposal being located to the side of the application dwelling, it would not result in continuous frontage of the site and it would remain subservient to the main dwelling. It is therefore not considered that the proposal would be of detriment to the rural nature of the surrounding vicinity."	• The garage/studio will constitute an infill development and is therefore subject to the provisions of the Local Plan Policies and Harbour SPD.
8.5	"The outbuilding would have a full hip on the southern elevation and a gable end with external stairs on the northern elevation. The hipped roof on the southern elevation combined with the position of the building, set back within the site and screened by a beech hedge, would minimise the visual impact of the proposal."	• It is not possible to assess the visual impact of the garage/studio until the drawing DP105 has been drawn correctly. • The visual impact of the garage/studio could only be deemed to have been minimised if the roof was not visible above the beech hedge.
8.5	"Shipton Cottage has an existing detached garage, which would be adjacent to the proposal, and therefore it is considered that the proposal would not appear out of character in the street scene."	• Shipton Cottage's garage is set back approximately 6.5 metres from its front face, whereas the south face of the garage/studio will be set forward of the front face of both Mulberry Cottage and Shipton Cottage and therefore visually prominent in the street scene.
8.7	"Overall the proposal would not detract from the scenic beauty of the AONB or the character and appearance of the street scene"	• Due to its visual prominence the proposal would detract from the scenic beauty of the AONB.

8.8	"The National Planning Policy Framework in paragraph 130 states that planning decisions should create places that offer a high standard of amenity for existing and future users"	• Whilst the garage/studio might create a high standard of amenity for existing and future users of Mulberry Cottage, it will mask sunlight reaching Shipton Cottage during late afternoon and early evening. • The National Planning Policy Framework in paragraph 130 also states that "*Planning policies and decisions should… ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting",* which have not been properly taken into account.
8.13	"….and the use of the main dwelling for rental accommodation is not material to the planning under considered [sic]"	• It has not been demonstrated that there is sufficient space for up to eight Airbnb guest cars to be parked, internally circulated and turned.
8.14	"Concerns have also been raised that the proposal will be sited on common land, the proposal would be situated within the established garden of the main dwelling, set back from the southern boundary and the adjacent common land.	• This statement is not correct. Concerns have actually been raised with regard to the shaded area to the south of Mulberry Cottage, shown on approved drawing DP103 rev 03, as 'parking and turning area for cars' being on common land. This area is habitually used by Airbnb guests because access to and egress from the garden area is restricted by the gate and boundary fence (which have been omitted from the drawing).
8.15	Conclusion	• For reasons set out in this document the conclusion is not valid.

APPENDIX 3 – INACCURATE OR MISLEADING INFORMATION AND ADVICE GIVEN TO COUNCILLORS ON 8/12/21

1 The 'Recommendation to Permit' report for WI/21/02059/DOM tabled at the meeting showed drawing DP105 to be approved when Officers actually suspected the drawing to be unreliable.

2 Furthermore, even though drawing DP105 was the only means available for Councillors to assess the visual impact of the garage/studio in the street scene, it was not referred to during the introduction given to Councillors, nor was there mention of any concern regarding the reliability of this drawing until the question of roof height was raised by Councillor Oakley towards the end of the meeting.

Councillor Oakley:
"*I don't know if I could confirm with the officers that on the proposed Street Scenes it is showing that the ridge of the proposed building, if I am looking at this correctly, being at the same height as the adjacent garage. Now as far as I'm aware is there any sort of accommodation or usable space in the roof of that adjacent garage given that this proposal does propose use of the upper floor and therefore what I'm trying to really confirm is whether the actual presented ridge height is consistent between this and the actual proposed elevations plan because I'm having a difficulty in believing they are the same height if you like, in reality."*

Chair:
"Miss Stevens please".

Ms F Stevens:
"Thank you. So, in terms of the height of the neighbouring garage. I don't know if that has been surveyed. So first of all, I would suggest it's important that consider the decision is based on a plan submitted for the application proposal itself. That said, I would suggest this appears to be a fully hipped roof for a double garage and it's not uncommon for them to be 5.5-6 metres high and also I can see here that it appears to be above the height of the eaves of this house. Now that all comes down to perspective and angle of photograph, so I just think it is important to consider the height of the current proposal, which would be 5.9 metres high with a 2.4 metres eaves, and how that would relate within the streets scene with, in particular regarding the two neighbouring properties, particularly as this garage is set back from the proposal in any event, but what I can't do is guarantee that that is a surveyed plan showing that garage and I would place reliance on the elevations and the block plan, rather than this street scene itself."

Later in the meeting, Mr Whitty:
The only thing that I'd is very quickly touch on, Chairman, for members finishing and considering is just to repeat what Ms Stevens said, which is that given that we can't verify necessarily the street scene in terms of as to whether there was a survey of the street scene that members just do base the decision upon the elevations and photographs of the scene. Thank you.

If drawing DP105 was suspected to be unreliable, why was it approved by Officers, and why were Councillors not told of its suspected unreliability during Ms Stevens' introduction?

Advising Councillors to place reliance on the elevations, the block plan and photographs, none of which show the garage/studio in the street scene, was a tacit admission that there was no way for Councillors to properly assess the visual impact of the garage/studio.

3 In response to a question from The Chair about the Harbour Conservancy's holding objection to the garage/studio, no reference was made to the comment *"to reduce overall impact the depth of the building could be reduced."* N.B. The Harbour Conservancy's email dated 15/10/21 acknowledged that a set of substitute drawings had already been submitted on 30/09/21.

Chair:
"The Chichester Harbour Conservancy response that is in here I believe was from the original application and they put a holding objection to be removed if the building depth reduced, single dormer substituted, etc, etc., most of which seems to have been complied with. Can you tell me whether they have come back with a second update?"

Ms F Stevens:
"Thank you. I don't believe we re-consulted on the amendments and think they were seeking to secure dormer windows when they had already been removed from the scheme. Thank you."

4 The advice given to the meeting, that the position of the proposed garage/studio conformed to the Harbour SPD, was inaccurate and misleading because, rather than being set back from the front face of Mulberry Cottage, the garage/studio overlaps it;

Councillor Bowden:
"…….My next question is that picture we're looking at now and the previous one both seem to suggest that the proposed garage is, is slightly set back from the housing line with reference to the road. Whereas I think it was two of the speakers and certainly one of them said it was set forward. So I'd quite like some clarity on that subject, please….".

Chair:
Miss Stevens, please.

Ms F Stevens:
"….In terms of the position of the garage it would be as shown on this plan it wouldn't be forward of the main house. I suppose there's an argument that sort of this corner of it is possibly slightly further forward but looking on that scale, but no, ultimately, it's set back certainly from the frontage of the site itself, it's certainly set back from the this [sic] *existing property. It is further forward of the neighbour's garage, which I mentioned within my presentation. In terms of the height of the garage as shown, we've scaled off of the drawing and this is correct and does tie in with the elevations that have been submitted showing it at 5.9 metres high……"*

It is not possible to reliably scale off drawing DP105 (even though this drawing is, inappropriately, provided with a scale) because it shows the street elevation in perspective. Ms Stevens must therefore have scaled off drawing DP104 – Elevations from which it is impossible to assess the visual impact of the garage/studio in the street scene.

In summary, the Planning Committee was inappropriately informed. Had full, frank and accurate information and advice been provided to Councillors, and given the closeness of the vote, it is entirely possible that the Committee would have reached a different decision.