

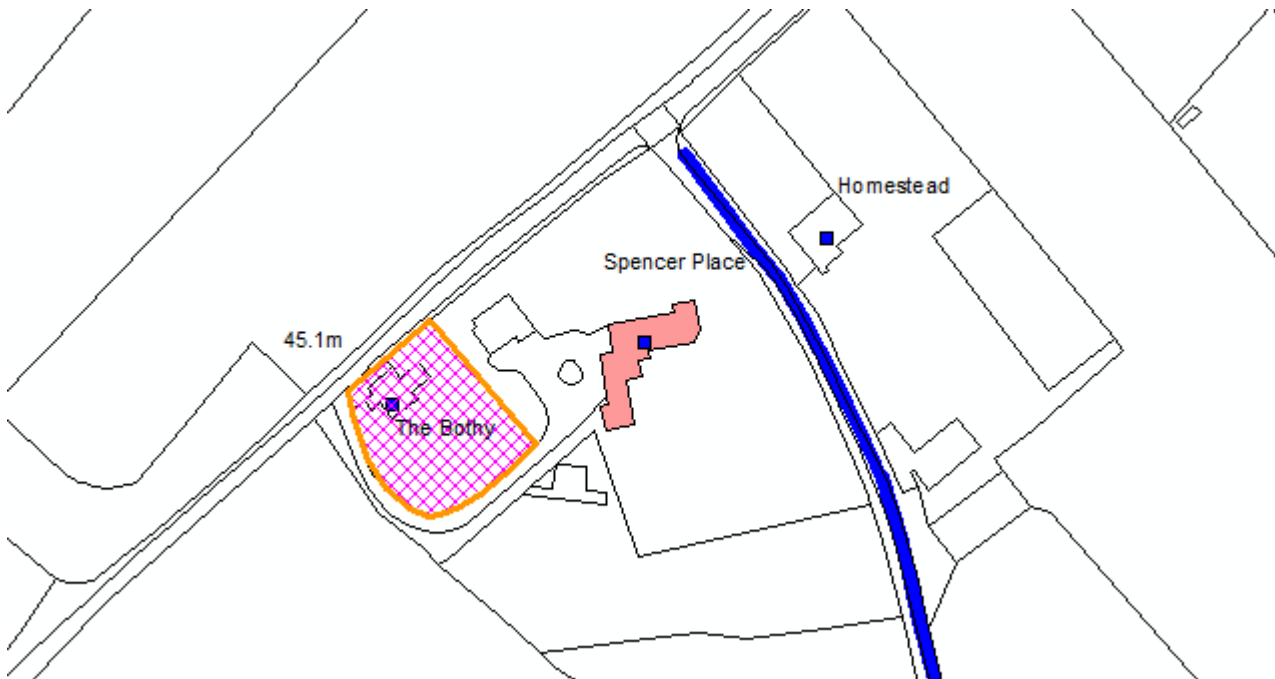
WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 23/01240/FUL
Proposal Description: Proposed use of annex as holiday accommodation and removal of Section 52 Agreement from outline planning permission W/10498 (AMENDED PLANS)
Address: Spencer Place, Sandy Lane, Waltham Chase SO32 2LR
Parish: Shedfield
Applicants Name: ALSURIKE
Case Officer: Liz Young
Date Valid: 25 May 2023
Recommendation: Permit
Pre Application Advice No

Link to Planning Documents

23/01240/FUL

<https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple>



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Reasons for Recommendation

The development is recommended for permission because it would be of a sufficiently modest scale for the purposes of Policy MTRA4 of the Winchester Local Plan Part 1: Joint Core Strategy Adopted 2013 and would not have an adverse impact upon the setting of Spencer Place (Grade II Listed Building) or the character and amenities of the wider area.

General Comments

The application is reported to Committee at the request of Shedfield Parish Council, whose comments are appended to this report.

Amendments to Plans Negotiated

An amended site layout and location plan were received on 2 October 2023 (Drawing Reference TBSL 02 T4) reducing the overall extent of the application site (amended red line) to address concerns raised by the Historic Environment Officer.

The amended plans required a further period of public consultation because of the change to the red line. Further comments were received from the Parish Council in response to this consultation.

Site Description

This application relates to a detached annexe known as 'The Bothy' which sits within the grounds of Spencer Place, a Grade II Listed Building. The building is relatively modest in size with an overall internal floor area of approximately 90 square metres. Ridge height measures 5.5 metres. The building lies close to the main site entrance, immediately south of the roadside boundary and just under 50 metres west of the main house.

The building is ancillary to the main house and is a key aspect of its setting, although it is not considered to be curtilage listed. It is of a traditional brick and tile construction and previously served as a detached garage before being converted to an annexe in 1988 following the granting of planning consent 88/01822/OLD. This consent was subject to a Section 52 Agreement (now called a Section 106 Agreement) ensuring it would not be used for any purposes other than for residential accommodation ancillary to the main house. The agreement therefore prevents the application building from being occupied as a self contained dwelling. The agreement also prevents external alterations from being carried out to the building.

The site lies approximately 350 metres west of Waltham Chase. However, the wider setting is predominantly rural and characterised by a loose cluster of dwellings set amongst fields with boundary trees and hedgerows.

Proposal

Consent is sought to change the use of the building from ancillary residential accommodation to a self contained holiday let. The application has been accompanied by a draft Deed of Release which seeks to release the owner and its successors in title and the Property from the covenants contained within the Original Section 52 Agreement with the effect that the Original Agreement shall cease to be of effect.

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Various amendments have been made to the document during the application process as a result of ongoing discussions with the WCC Legal Officer and a final signed version incorporating these changes has been provided by the applicant for signing and sealing.

The building would continue to share the main access with the main house, although a fence and hedgerow would be introduced to form a separate garden area. Other than the fence to be erected, no operational development is proposed (based upon the plans which accompany the application).

Relevant Planning History

Alterations to existing garage to provide granny annexe (88/01822/OLD) Permitted subject to legal agreement 8 November 1988

Consultations

Natural England – No objections subject to appropriate mitigation being secured

Service Lead – Built Environment (Historic Environment) – No objections subject to conditions

Representations:

Shedfield Parish Council: (Full comments in Appendix 1 below)

Original objection raised:

- The Section 52 Agreement was intended to prevent the creation of a separate dwelling
- Limited information on the nature of the proposed use
- The application submission does not consider the impact upon the listed building status of the main house
- Concern that if consent is granted the building could then be converted to a separate dwelling in future

Further comment received from Shedfield parish Council pursuant to amended plans re-affirming objection and requesting that the application goes to Committee.

No third party representations received.

Relevant Government Planning Policy and Guidance

National Planning Policy Framework (2023) (NPPF)

Section 2 – Achieving Sustainable Development

Section 6 – Building a Strong Competitive Economy

Section 12 – Achieving Well Designed Places

Section 15 – Conserving and Enhancing the Natural Environment

Section 16 – Conserving and the Historic Environment

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Winchester Local Plan Part 1 – Joint Core Strategy (2013) (LPP1):

Policy DS1 – Development Strategy and Principles
Policy MTRA4 - Development in the Countryside
Policy CP13 – High Quality Design
Policy CP16 – Biodiversity
Policy CP20 – Heritage and Landscape Character

Winchester District Local Plan Part 2 – Development Management and Site Allocations (2017) (LPP2):

Policy DM15 – Local Distinctiveness
Policy DM16 – Site Design Criteria
Policy DM17 – Site Development Principles.
Policy DM18 – Access and Parking
Policy DM23 – Rural Character
Policy DM29 – Heritage Assets

Supplementary Planning Documents

National Design Guide 2019
High Quality Places 2015
Shedfield Village Design Statement 2016

Other relevant documents

CLIMATE EMERGENCY DECLARATION CARBON NEUTRALITY ACTION PLAN 2020 – 2030

Statement of Community Involvement 2018 and 2020

BIODIVERSITY ACTION PLAN 2021

Position Statement on Nitrate Neutral Development – February 2020

Principle of Development

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development is not situated within a settlement boundary therefore countryside policies apply.

Policy MTRA4 of the Local Plan Part 1 (LPP1) allows for low key tourist accommodation appropriate to the site, location and setting, provided that the development is in accordance with the policies of the Development Plan and unless material planning reasons indicate otherwise. This policy is therefore closely aligned with paragraph 84 of the NPPF which states that planning decisions should enable '*sustainable rural tourism and leisure developments which respect the character of the countryside*'.

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It is acknowledged that concerns have been raised by the Parish Council that the proposed development would not be sufficiently low key for the purposes of Policy MTRA4. This policy does not define low key but indicates that proposals should not cause harm to the character and landscape of the area or neighbouring uses or create inappropriate noise/light and traffic generation. The proposed development would comprise a single one bedroom unit, and no physical alterations are proposed to the building. The parking area and access will also remain unchanged as these are in place and already in use in association with the main house. With regards to traffic generation, it is accepted that the development site lies in an area which would necessitate the use of a private car (an issue highlighted in the various comments received). However, given the very modest size of the building and the fact that it lies within the residential curtilage of a significant larger property which already generates a degree of domestic activity, it is considered that the proposal would not give rise to a significant or harmful increase in vehicular activity in comparison with the existing situation. The occupation of the holiday let is to be limited to no more than two occupiers for a maximum period of 4 weeks and for no more than 3 times per year, with a break between each occupation, by the same occupier, of 4 weeks. This restriction would (alongside the very modest size of the building) further limit the comings and goings from the site in addition to ensuring it would not become a separate dwelling and is used as standard practice for all new holiday accommodation when permitted within the district. This is an established and accepted approach which ensures tourism development can take place in a controlled way and in accordance with the provisions within MTRA4.

For these reasons the proposal is considered to be sufficiently low key for the purposes of Policy MTRA4 and the principle is considered acceptable in policy terms.

Assessment under 2017 EIA Regulations.

The development does not fall under Schedule I or Schedule II of the 2017 Environmental Impact Assessment Regulations, therefore an Environmental Impact Assessment is not required.

Impact on character and appearance of area

The existing building in its current form is of a rural, compact character which is reflective of its current status as an ancillary structure within the grounds of the main house. Whilst the proposal would effectively result in the building becoming a self contained holiday let, as identified above there would be no significant physical changes to its external appearance with the exception of the proposal to subdivide the plot though the introduction of additional fencing.

With regards to any wider impacts associated with the use, whilst the proposal would result in an additional element of domestic activity and vehicular activity, its modest scale, alongside its location within the residential curtilage of Spencer Place is such that the proposal would not result in a significantly greater level of visual intrusion or loss of tranquillity than is currently the case. The building is also well distanced from the public right of way to the east and no changes are proposed which would be visible from the road to the north. The main house lies between PROW and the application site and so the proposal would not impact significantly upon public views.

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Overall, it is considered that the proposed development would preserve the rural character of the area as required by LPP2 Policy DM23.

Historic Environment

The development is within the curtilage of a Grade II listed building (Spencer House). As identified above, the application building is not curtilage listed but nevertheless forms part of the setting of Spencer House.

The Planning Authority is required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. Case law has established that where an authority finds that a development proposal would harm the setting of a listed building, it must give that harm "considerable importance and weight".

Paragraph 199 of the NPPF advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. LPP1 Policy CP20 and LPP2 Policy DM29 seek to ensure that development preserves and enhances heritage assets and their settings.

The application as originally submitted proposed a much larger garden area to the holiday let and concerns were raised by the Historic Environment Officer that this would have a harmful impact upon the setting of the listed building as it would alter the relationship between the two buildings. To address these concerns, amended plans have been submitted which show a reduced garden size to the holiday let and the removal of the proposed hedge line which was to be included along the new boundary. This has served to reduce the overall prominence and extent of subdivision and would ensure the open character of the site as a whole would be retained. It would also retain the subservient character of the building. The Historic Environment Officer has confirmed that they raise no objections to the development having regard to these amended plans and subject to conditions ensuring the holiday let would not subsequently be converted to a self contained dwelling.

In conclusion it is considered that the proposals would preserve the historic fabric, character and setting of the listed building as required by LPP1 Policy CP20 and LPP2 Policy DM29.

Neighbouring amenity

With the exception of Spencer Place itself, the application site is not directly adjoined by any neighbouring properties. Beyond this the closest neighbouring property to the site lies just over 60 metres to the west across Sandy Lane. The roadside trees along Sandy Lane provide screening between the properties and as such the proposal will not give rise to any significant impact upon the amenities of neighbouring residents, particularly when having

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regard to the modest scale of the development. Overall, it is therefore concluded that there would be no conflict with LPP2 Policy DM17.

Sustainable Transport

The scale of the proposed development is such that it would give rise to a very modest increase in vehicular activity in comparison with the existing use. There are currently two parking spaces within the application site at present and these are proposed to remain in place. Overall, it is therefore considered that the development would not give rise to any harmful impacts upon highway safety or access arrangements to and from the site and there would be no conflict with LPP2 Policy DM18.

Ecology and Biodiversity

The application site lies wholly within the residential curtilage of the existing dwelling and the nature and scale of the development is such that it would not give rise to any notable ecological interests within or adjacent to the site.

With regards to the water environment, the proposed development is within Winchester District where foul water is distributed into the European designated areas Solent SPAs/Ramsar sites via water treatment plants. In accordance with advice from Natural England and as detailed in Policy CP16 of the Winchester City Council Local Plan Part 1 Joint Core Strategy a net increase in housing development (overnight accommodation) within Winchester District is likely to result in impacts to the integrity of those sites through a consequent increase in Nitrates. As such, in the event that consent was forthcoming, a Grampian condition in line with the Winchester City Council Position Statement on Nitrate Neutral Development will be required to secure appropriate mitigation prior to occupation and this has been recommended..

In this case the application has been accompanied by a nutrient budget which concludes that inclusive of the 20% buffer the development will generate 0.90 kg of Nitrogen per year. A European Sites checklist has also been included which confirms that the applicant is content that a Grampian condition would be imposed in the event that consent is granted to secure appropriate mitigation in relation to in combination impacts upon the water environment of the Solent sites.

A Habitat Regulations Assessment has been undertaken and accordingly it is concluded that (having regard to mitigation) there is therefore sufficient information to rule out likely significant effects on the internationally designated sites in the Solent catchment due to the increase in wastewater resulting from the proposal in combination with other plans and projects across the Solent area.

A further consideration is that in order to deal with the effect of new housing on the Special Protection Areas (SPA) of the Solent as more people visit the coast. Specifically, as more people visit the coast, the wildfowl and wading birds which overwinter along the Solent are more likely to be disturbed. Winchester City Council therefore has a responsibility under the Conservation of Habitats and Species Regulations 2010 as to not permit a plan or project which will have an adverse affect on a SPA. The application site falls within 5.6km of the Solent SPAs, where Natural England advises that any additional housing

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development is likely to have significant in-combination effects. Accordingly Winchester City Council will contributions towards the strategic mitigation scheme.

In this case the applicant has made an up-front payment, ensuring the mitigation of increased recreational activity along the Solent coastline resulting from the current proposal in combination with other developments as required by the Habitat Regulations.

Natural England have confirmed that they raise no objections to the proposed development and overall it is concluded that the development meets the requirements of LPP1 Policy CP13.

Equality

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of our duty.

Planning Balance and Conclusion

The overall scale of the development and the fact that it would be contained within an existing building within the residential curtilage of the main house is such that it would be low key for the purposes of satisfying LPP1 Policy MTRA4 and would not give rise to a materially harmful impact upon the character of the area in terms of visual intrusion or increased levels of activity. Having regard to amended plans received it is considered that the development would not have a harmful impact upon the setting of the listed building.

It is therefore recommended that planning permission should be granted.

Recommendation

Approve subject to the following condition(s):

Conditions

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2.The development hereby approved shall be constructed in accordance with the following plans received: -

TBSL 02 T4 – Proposed Site Layout

TBSL 01 T1 – Building Layout

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Reason: To ensure an acceptable design, scale and layout and to avoid adverse impacts upon amenity as required by policies DM16 and DM17 of the Winchester District Local Plan Part 2 (2017)

3. The tourist accommodation hereby permitted shall be used for holiday accommodation only which shall be limited to any two occupiers occupying any unit for a maximum period of 4 weeks and for no more than 3 times per year, with a break between each occupation, by the same occupier, of 4 weeks. A register of the names of the occupiers of the unit and their arrival and departure dates shall be kept by the developer and shall be produced to the Local Planning Authority upon reasonable notice.

Reason: To accord with the terms of the application since the site lies within an area where residential properties would not normally be permitted.

4. The area shown for the parking and turning of vehicles as indicated on Drawing Reference TBSL 02 T4 shall be provided and reserved for these purposes at all times.

Reason: To ensure that vehicles parked on the site are able to enter and leave in forward gear as required by LPP1 Policy DM18.

5. The development hereby permitted shall NOT BE OCCUPIED until:

A) A water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to and approved in writing by the Local Planning Authority:

B) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European sites by the development and be implemented in full prior to first occupation and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites

C) All measures forming part of that mitigation have been secured and submitted to the Local Planning Authority."

Reason: To accord with the Conservation of Habitats and Species Regulations 2017, and Policy CP11, CP16 and CP21 of the Winchester District Local Plan Part 1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, B, C, D, E and F of Part 1; of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To ensure any development does not harm the setting of the listed building, and to satisfy Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy DM29 of the Winchester District Local Plan.

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Informatives

In accordance with the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

In this instance amended plans were requested from the applicant.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester Local Plan Part 1 – Joint Core Strategy (2013) (LPP1):

- Policy DS1 – Development Strategy and Principles
- Policy MTRA4 - Development in the Countryside
- Policy CP13 – High Quality Design
- Policy CP16 – Biodiversity
- Policy CP20 – Heritage and Landscape Character

Winchester District Local Plan Part 2 – Development Management and Site Allocations (2017) (LPP2):

- Policy DM15 – Local Distinctiveness
- Policy DM16 – Site Design Criteria
- Policy DM17 – Site Development Principles.
- Policy DM18 – Access and Parking
- Policy DM23 – Rural Character
- Policy DM29 – Heritage Assets

3. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out above, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

4. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

5. During construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded

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that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

6. Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.

For further advice, please refer to the Construction Code of Practice

<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-ofconsiderate-practice>

7. Please be advised that Building Regulations approval may be required for this development. Please contact WCC Building Control Department for more information (T: 01962 848176, E: buildingcontrol@winchester.gov)

8. Please be advised that because the application building is not longer used for purposes incidental to the main house, any extensions or alterations which materially alter the external appearance of the building will require formal planning consent.

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Appendix 1 – Shedfield Parish Council Comments



19/07/2023

Jordan Wiseman
Case Officer
Planning Department
Winchester City Council

Dear Jordan

Re: 23/01240/FUL - Proposed use of annex as holiday accommodation and removal of Section 52 Agreement from outline planning permission W/10498.

This application should be taken into consideration alongside policy MTRA4:

Policy MTRA 4 - Development in the Countryside

In the countryside, defined as land outside the built-up areas of Winchester, Whiteley and Waterlooville and the settlements covered by MTRA 2 and 3 above, the Local Planning Authority will only permit the following types of development:

- development which has an operational need for a countryside location, such as for agriculture, horticulture or forestry; or
- proposals for the reuse of existing rural buildings for employment, tourist accommodation, community use or affordable housing (to meet demonstrable local housing needs). Buildings should be of permanent construction and capable of use without major reconstruction; or
- expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need, provided development is proportionate to the nature and scale of the site, its setting and countryside location; or
- small scale sites for low key tourist accommodation appropriate to the site, location and the setting. Development proposed in accordance with this policy should not cause harm to the character and landscape of the area or neighbouring uses, or create inappropriate noise/light and traffic generation.

The condition 52, set in 1988, was intended to stop the creation of a separate dwelling house. The same reasons for the condition that were prevalent then still apply today.

For reference, Section 52 recorded that:

“With the intention of binding the Property and any part or parts thereof into whosoever hands the same may come, the Covenantor hereby covenants with the Council that:

- a) The Development shall not be used for any purposes other than for residential accommodation ancillary to the occupation and use of the existing dwelling house and shall

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not at any time be occupied as a dwelling house independent of and separate from the existing dwelling house

- b) No sale of the freehold or grant of a lease or licence of the Development shall be made as part of the Property..."

There is no submitted plan for the necessity of a holiday let in the area, neither is there a plan for the type of holiday let i.e., Airbnb, long term let, summer holiday periods only, etc.

Much reference has been made to W10498 88/01822/OLD. This application is titled "Alteration to existing garage to provide granny annexe".

In the planning statement there is no mention that this is part of a Grade 2 listed building, with a late 15th/early 16th century timber frame and subsequent timber frame/brickwork additions.

Listing marks and celebrates a building's special architectural and historic interest, and also brings it under the consideration of the planning system, so that it can be protected for future generations. It also ensures the building's character or appearance are not affected adversely by unregulated planning and development. Having a holiday let with new fencing will damage the ambience and feel of the original building. A heritage report has been submitted in past applications.

Should this application be successful, the next step may be to create a separate or independent dwelling, which is contrary to Section 52.

Shedfield Parish Council therefore recommends refusal of the application due to the reasons provided above.

Best wishes

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Further Comment 8 November 2023

City Councillor's request that a Planning Application be considered by the Planning Committee

Request from Councillor: Cllr David Ogden, Shedfield Parish Council
Case Number: 23/01240/FUL
Site Address: Spencer Place, Sandy Lane, Waltham Chase, SO32 2LR
Proposal Description: Proposed use of annex as holiday accommodation and removal of Section 52 Agreement from outline planning permission W/10498 (AMENDED PLANS)
Requests that the item be considered by the Planning Committee for the following material planning reasons: Following your comments on the possibility of making a favourable recommendation for the above referenced application, with planning conditions attached re. the occupancy of the intended holiday-let, Shedfield Parish Council would like to respond by agreeing their full support for MTRA 4. Applications that increase tourism and employment are permitted, as stated below: <ul style="list-style-type: none">• small scale sites for low key tourist accommodation appropriate to the site, location and the setting. Development proposed in accordance with this policy should not cause harm to the character and landscape of the area or neighbouring uses or create inappropriate noise/light and traffic generation. It is Shedfield Parish Council's opinion that this application will harm the character of the area. The annex is in the curtilage of a listed building, which should be both celebrated and protected. However, SPC believes it will be harmed by the removal of Section 52. We have been in consultation with our planning consultant in order that robust objections can be put forward at any hearing.

- Whilst requests will be accepted up to the determination of the application, Members should make their request as quickly as possible and preferably within the publicity period of the application. Otherwise the case may be determined under delegated powers soon after the expiry of the publicity period. The committee date for the application will depend upon when the request is received in relation to the committee cycle.
- It would be helpful if Members can indicate their preferred outcome to avoid it going to the committee unnecessarily

Once completed, please email this form to the relevant Planning Case Officer and the Head of Development Management.

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