



Planning Design & Access Statement

**Site: Dairy Cottage, Wendlebury,
Bicester, OX25 2PR**

For: Mr & Mrs Howard

**Proposed demolition of existing dwelling
and erection of 4-bed 1½ storey dwelling.**

February 2014

1.0 Introduction

1.1 This statement has been produced by JPPC to accompany the application by Mr & Mrs Howard seeking planning permission for the erection of a replacement dwelling at Dairy Cottage, Wendlebury. With reference to the character of the application site and surrounding area, an appraisal of the prevailing planning policy and planning history and an assessment of the planning issues raised by the proposal, this statement sets out why the development is considered acceptable.

2.0 Site Description, Planning History and Proposal

2.1 The application site is located to the South of Wendlebury Village. The existing dwelling is located along Main Street. The site is located outside the Green Belt, and is not located in any conservation area, area liable to flood or area of outstanding natural beauty. There are no listed buildings in the vicinity, or Tree Preservation Orders.

2.2 There are two two-storey houses on the same drive as the site located to the north. The adjacent house has two small first floor windows facing the site on its side gable; these are set back approx 6m from the boundary.



Dairy Cottage,
Main Street,
Wendlebury

Proposal

- 2.3 This application seeks planning permission for the erection of a replacement dwelling taking access via the existing access. The new dwelling would be one and a half storeys in appearance and would provide 4 bedrooms and would be of contemporary vernacular design. It would be located in the same position as the existing.

Planning History

- 2.4 Dairy Cottage was constructed in 1965 to accommodate the herdsman and his family, working on College Farm. The use of the Cottage by the farm's herdsman, or anyone associated with farming, ceased in 1995. The following application references are appropriate to the site NE/222/65 Approved 19th June 1965, 'in outline' and NE/458/65 Approved 'in detail'.
- 2.5 Recently a Certificate of Lawfulness was granted on 13th September 2013 confirming that the dwelling is not now subject to an occupancy restriction (Application Reference: 13/01194/CLUE).
- 2.6 The existing dwelling has full permitted development rights. In January 2014 an application for a Certificate of Lawfulness was applied for to confirm the extent of these rights.

3.0 Planning Policy

- 3.1 Under Section 38(6) of the Planning Compulsory Purchase Act 2004 there is a statutory obligation to determine planning applications and appeals in accordance with the development plan unless material considerations indicate otherwise. Material considerations can include Government guidance and any other matters relevant to the use and development of land.
- 3.2 In this instance, the Development Plan consists of the Adopted Cherwell Local Plan 1996. The Council has also produced a Proposed Submission Focussed Consultation Document for the emerging Cherwell Local Plan that underwent consultation in March 2013 and is now being converted into a publishing format for formal submission to the Secretary of State. The Council has a non-Statutory Local Plan which it uses for development control purposes but which has no statutory basis for decision making.

National Planning Policy Framework (NPPF)

- 3.3 Paragraph 2 of the NPPF states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparation of local and neighbourhood plans, and is a material consideration in planning decisions.
- 3.4 Paragraph 9 states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to): replacing poor design with better design; improving the conditions in which people live; and widening the choice of high quality homes.
- 3.5 Paragraph 14 states that at the heart of the National Planning Policy Framework is presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 3.6 In respect of decision taking it states that this means:
- Approving development proposals that accord with the development plan without delay; and

- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or – specific policies in the Framework indicate development should be restricted.

3.7 Annex 1 deals with the implementation of the policies in the NPPF. For plans of an age similar to the Adopted Local Plan it states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to policies in the Framework, the greater the weight that may be given).

3.8 The 12 core planning policies are set out at paragraph 17 and include requirements that planning should:

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;

3.9 Section 7 of the NPPF sets out requirements for good design, including stating that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). It further states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or

styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

- 3.10 In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area (paragraph 63).
- 3.11 Paragraph 93 states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions.
- 3.12 Paragraphs 186 and 187 deal with decision taking and states local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Adopted Cherwell Local Plan (1996)

- 3.13 The site is considered to be located within the built up limits of Wendlebury, which is listed as a Category 2 settlement, where residential development will be allowed if it comprises infilling, other small scale development that can be shown to secure significant environmental improvement within the settlement or the conversion of an existing non-residential building, according to policy H14.
- 3.14 Policy H17 considers only proposals for the one-for-one replacement of an existing statutorily unfit or substandard dwelling. It is silent on proposals for the replacement of dwellings that are not statutorily unfit or substandard. It provides as follows:

‘H17 Proposals for the one-for-one replacement of an existing statutorily unfit or substandard dwelling will normally be permitted provided:

- i) The existing building is not a listed building capable of restoration or suitable for an appropriate alternative and beneficial use;
- ii) In cases where existing building lies outside the limits of an existing settlement, the use of the building as a dwelling has not been

abandoned or extinguished and its proposed replacement is similar in scale and within the same curtilage;

iii) The proposal meets the requirements of the other policies in the plan.'

3.15 The supporting text to policy H17 states as follows:

"The Council recognises that it will occasionally be necessary to permit the replacement of an unfit or substandard dwelling in the countryside. A strong presumption against the demolition of a listed building is embodied in planning law, and the number of instances where this might be justifiable in the plan area as a whole will be exceedingly rare. The protection of the character of the countryside will be a primary objective in all cases, and proposals for substantially larger and more conspicuous dwellings in the landscape will be resisted."

3.16 The supporting text does not define the requirements for a dwelling to be considered substandard.

3.17 Policy C28 states as follows:

'C28 Control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development. In sensitive areas such as conservation areas, the area of outstanding natural beauty and areas of high landscape value, development will be required to be of a high standard and the use of traditional local building materials will normally be required.'

3.18 Policy C30 states that design control will be exercised to ensure:

- (i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity; and
- (ii) that new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the local planning authority.

Non-Statutory Local Plan

- 3.19 Similar provisions are set out in the Non- Statutory Local Plan, but as this has no formal weight the provisions are not reflected here.
- 3.20 As of December 2013 CDC accepted that it only has a 4.5 year housing land supply. The absence of a housing land supply is a relevant consideration.

4.0 The Design Component

- 4.1 Circular 01/06 outlines the information required to satisfy the design component of a Design and Access Statement. The following section briefly addresses these requirements:

Use

- 4.2 The site is currently in use as a single dwellinghouse and would continue to be used for that purpose were planning permission to be granted.

Amount

- 4.3 The application seeks planning permission for the erection of a 4 bedroom one and a half storey dwellinghouse. Notably the amount of development will be less than would occur if a fall back position shown in the recent LDC scheme were to be carried out. Howard Properties Ltd has confirmed that it will carry out the fall back position if the replacement dwelling application is unsuccessful in the statement attached at Appendix A.

Layout

- 4.4 The proposed dwelling would be sited in more or less the same position as the existing dwelling within the site. Access for pedestrians and vehicles will be in the same position on the north eastern boundary. The building would be orientated on a North north east/ South south west axis.

Scale

- 4.5 The proposed dwelling would be just less than 22.5 metres wide, a maximum of 6.5 metres deep and would be 7.1 metres high.
- 4.6 The adjoining houses Ploughmans Cottage and Woodmans Cottage are 8 metres high to ridge by 26m wide.

Landscaping

- 4.7 The site has an existing garden and no additional landscaping is proposed or required.
- 4.8 There are no trees affected by this proposal.

Appearance

- 4.9 The dwelling would be finished with welsh slate styling roofing, with natural stone facing to ground floor walls and horizontal timber boarding facing to first floor walls.

5.0 Planning Considerations

Principle of the Development

- 5.1 It is not a listed building. It would be replaced within the same curtilage, broadly on the footprint of the existing building, which would be in accordance with H17.
- 5.2 Policy H17 provides in favour of the replacement of existing statutorily unfit or substandard dwellings. The existing dwelling is not statutorily unfit but it is considered that this concept is outdated and it is therefore no longer necessary or required to consider whether it is or not; this part of the policy is not NPPF compliant.
- 5.3 The existing dwelling can however be shown to be substandard because it would require a significant amount of work to make the building of a respectable standard to live in, in future. It is for this reason that the LDC scheme was devised. The house needs considerable work to be a decent dwelling for the 21st century; delivery of the fall back position extensions would improve the dwelling. The policy does not set out what standard such a proposal should be considered against.
- 5.4 The NPPF confirms at paragraph 89 that in the Green Belt where policy is very strict the replacement of a building is not inappropriate development provided the new building is in the same use and not materially larger than the one it replaces. Thus there can be no in principle objection to replacement of a non-Green Belt dwelling.
- 5.5 Consideration of whether the proposed building would be materially larger should consider not only the building as it currently stands, but the potential size of the building taking into account permitted extensions and any un-used permitted development rights for extensions (what we call here the fallback position). The presence of a fallback situation is highly relevant in development control decision making.
- 5.6 In relation to the weight to be given to a fallback position, the case of *Simpson v Secretary of State for Communities and Local Government and Medway*

Council is helpful. This concerns the permanent residential mooring of a boat on a site with long-standing mooring rights.

- 5.7 In judgement it was said: “The essence of any fallback position is that although the proposed development might have an adverse effect, if planning permission were withheld, other uses or operations with adverse effects but not requiring planning permission could also be carried out; so that in the final evaluation the proposed development ought to be judged acceptable in view of what might occur if permission for it was refused (see Snowden v Secretary of State for the Environment). A fallback position has two elements that need to be established before it can be brought into the evaluation and used to justify the grant of permission. The first is the nature and content of the alternative use or operation. The second is the degree of likelihood of the alternative being carried out (see South Buckinghamshire District Council v Secretary of State for the Environment).
- 5.8 In this instance the fallback position is established by the plans which are included in the LDC submission (and also attached to this submission) and note extensions which would be undertaken using permitted development rights. There is no necessity to have a Certificate for permitted development works but one will be forthcoming. Under permitted development the house could be more than doubled in size from about 401m³ to 1,106m³.
- 5.9 The nature and content of the alternative operation (using the words in the above judgement) or fallback would be the creation of a dwelling with a much larger total size and footprint to that now proposed. The fallback position would provide a dwelling with an above ground volume of 1,106m³ whereas the current proposal would be only 841m³ in size, some 31% smaller than the permitted development fallback situation.
- 5.10 It is the applicant’s confirmed intention (see attached statement) that should its efforts to gain planning permission for a replacement dwelling be unsuccessful, it will build out the fallback extension in order to provide a dwelling of sufficient size to add value to the premises.

5.11 It is however our belief that the proposed replacement dwelling would be no more harmful than the fallback option due to its smaller scale/volume¹, but would be better than the fallback extension proposal because the design would be more pleasing and the method of construction would be more sustainable given the wholly new construction and need to meet better building standards in newbuilds than in extensions. In *Coln Park LLP vs SOSCLG 2011 Collins J* confirmed that any fallback should be less desirable than the scheme for which planning permission was sought. We consider that the extension (fallback) scheme would be less desirable than what is proposed here; because a) The proposed building would be more energy efficient from a geometric perspective compared with the LDC fall back position, which has a higher external surface area and b) the LDC fallback would almost certainly have a significantly higher carbon footprint than the proposed replacement dwelling.

Sustainability

5.12 The NPPF makes it clear that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. It is evident that there would be energy efficiency to be had from the construction of a replacement dwelling as compared to an extension and refurbishment of the existing house.

5.13 It is anticipated that a new build replacement dwelling would achieve better standards of insulation, air tightness standards and thermal detailing of connections and junctions between elements, and could demonstrate reductions of the order of 50% for primary energy demand and reductions of 50% in carbon dioxide emissions. The smaller volume and more compact shape will retain energy better than extensions would in the long-term. Thus the proposal for a replacement dwelling would be more sustainable development and would provide a greater degree of benefit in terms of securing a successful transition to a low carbon future in a changing climate.

¹ It will be noted that the LDC scheme does not fully utilise the permitted development extension size allowance

Design

- 5.14 The new materials would be in keeping with the mixed palette of materials that are found locally, and the overall composition is considered to be a more pleasing design solution than extending the house. The replacement dwelling is considered a coherent and well-mannered design and preferable to that which could be achieved by extensions. Significant weight should also be given to this in the consideration of the application, given the local and national policy of striving for good or better design.
- 5.15 The height of the proposal would exceed that of the existing dwelling but its height would not exceed that of the existing houses nearby. As the height is and eaves line is similar to neighbouring houses (actually lower) the building will remain in character with the line of dwellings which are of variable height.
- 5.16 Due to its more compact nature the house would be no more conspicuous than the somewhat sprawling fallback position.

Neighbour Impact

- 5.17 There is a dwelling located to the north of the property but the rest of the elevations are surrounded by fields located to the east and south of the property. No windows are proposed to face north at first floor level. This proposal would not create any undesirable overlooking, overshadowing or overbearing impact to the neighbours given the distance between the two properties and the care taken to avoid windows overlooking other houses.
- 5.18 Additional point, the LDC fallback has considerable scope for constructed volume in front of the existing house, the proposed replacement dwelling leaves this area clear resulting in a less enclosed approach, particularly for the neighbours, which was the main driver for the linear footprint of the proposed. An 'inline ridge' also results in the minimum disruption in the neighbour's reasonable outlook from those windows compared with a ridge at 90°. The positioning of the two storey element away from the boundary ensures compliance with the 45°/25° rule from the two neighbouring first floor windows. The image below shows the relationship to the neighbouring windows. Sunpath analysis has been carried out to confirm that there would be no harmful shading to Ploughmans.



Ecology

- 5.18 The applicant has given due regard to the need to consider whether the proposal would impact on protected species. With this in mind a report was commissioned from ecology experts Ecoconsult.
- 5.19 This report concludes there was no evidence of bats on the outside or inside of the building. It is concluded that bats do not roost in the cottage as present and that no survey is necessary.

Access

- 5.20 The vehicular access position will not change from the existing. There is ample off-street parking available for a single dwelling.

6.0 Conclusions

- 6.1 This statement has examined the planning background of the site and the relevant national and local planning policy framework in respect of the proposed new dwelling.

- 6.2 The proposal is considered in accordance with the NPPF policies mentioned in Section 3. It is also considered that the proposal would be appropriate development in the light of policy H14 (adopted) and H17.
- 6.3 If this is not accepted this statement also demonstrates that the applicant has a fallback position of being able to extend the existing dwelling to provide an equivalent standard of accommodation and it is a stated intention to carry this out if planning permission is not granted for the replacement dwelling. The fallback position is identified and will proceed, and can be given considerable weight.
- 6.4 The proposed replacement dwelling is no more harmful than the fallback position in terms of impact it would have, but is better in terms of the improved sustainability and benefits in securing a low carbon future, it is also of an improved design and is 31% smaller than the fall back position.
- 6.5 It is concluded therefore that material considerations dictate that the proposed replacement dwelling should be approved

Appendix A

Applicants Statement

We bought the Dairy Cottage in order to make an income from it. It is a tired old property in need of updating. Since buying it I have sought advice and understand that I would not need planning permission to double the size of the dwelling, by undertaking permitted development extensions to it. Planned Approach Architects have produced plans showing how best to utilise these permitted development rights, which seem to be sensible plans and would add considerable values should we undertake them. We have begun preparations for carrying out works already. Either of the options would provide a good size of accommodation, and provide a return on investment.

We would rather do the new build but will do extensions should the replacement scheme be stalled or rebuffed.

Yours Sincerely

Mr & Mrs Howard