

Case Officer: Daisy Kay-Taylor

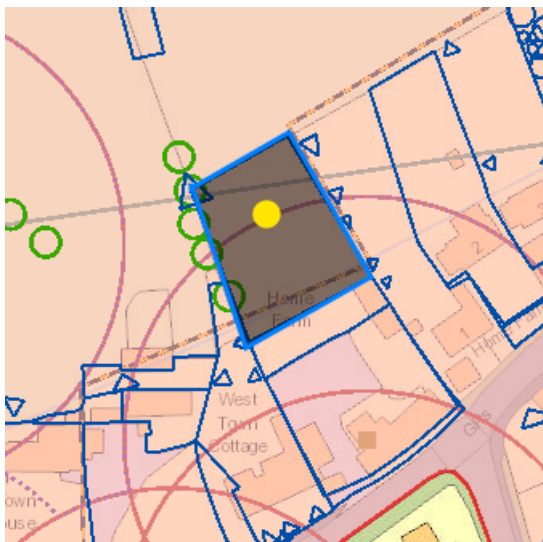
Recommendation:

Applicant: Mr and Mrs Crossley

Proposal: Change of use of land to residential garden, erection of green house, fencing, paving and associated works (retrospective)

Expiry Date: 17 May 2024

Extension of Time:



1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a parcel of land to the north of Home Farm, a two storey dwelling with a number of outbuildings within its residential curtilage, some of which have been recently subject to extension and conversion.
- 1.2. The site lies within the built form of Sibford Ferris and within the designated Sibford Ferris Conservation Area. There is a Tree Preservation Order (TPO) on a tree living on the western boundary of the site. Home Farm is not a listed building and there are no listed building in the immediate vicinity. There are views into the site from public footpath 347/3/10 which runs broadly north-south approx. 80m to the west.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This application seeks planning permission to change the use of the parcel of land to the north of Home Farm to residential garden and retrospective planning permission for the erection of a greenhouse, an area of replacement fencing, and the formation of an area of hardstanding (paving slabs) adjacent to the greenhouse.
- 2.2. The greenhouse measures 2.7m (width) x 3.2m (length) x 2.5m (height at ridge).

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

- 3.2. **98/01693/F** Change of use of a section OS Parcel 4940 from agricultural use to orchard/vegetable garden. Permitted 18 December 1998
- 3.3. **01/00574/F** Erection of post and 3no rail fence with stockproof wire mesh (retrospective). Permitted 30 May 2001
- 3.4. **13/01697/F** Replacement of shed/garage roof, installation of rooflight and new access door. Demolition and replacement of timber-framed lean-to garage with additional log store. Permitted 06 January 2014
- 3.5. **21/01712/F** Single storey rear extension to dwelling and extension to and conversion of existing outbuilding to habitable accommodation. Permitted 09 July 2021
- 3.6. **22/01050/F** Single storey rear extension to dwelling and extension to and conversion of existing outbuilding to habitable accommodation (revised scheme of 21/01712/F to enlarge the approved extension to the outbuilding and to vary the roof material to the existing lean-to section of the building). Permitted 06 June 2022

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **30 April 2024**, by advertisement in the local newspaper expiring **02 May 2024** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **02 May 2024**.

- 5.2. The comments raised by third parties are summarised as follows:

- In its current format for over 20 years and is 'a beautiful garden.... an asset to the village and enhances the Conservation Area'
- Modest greenhouse and paving area consistent in scale with greenhouse and the rest of the garden
- Concerns about loss of views and loss of the transition [provided by the orchard/vegetable garden] from residential curtilage to agricultural land to the detriment of the visual amenity of the Sib valley
- Concerns about future development under permitted development rights such as means of enclosure, buildings, swimming pools and other structures

- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

- Sibford Ferris Parish Council: no objection

- CDC Arboriculture: no comments or objections received

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 – Retention of features contributing to character or appearance of a conservation area
- C28 – Layout, design and external appearance of new development

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)

8. APPRAISAL

- 8.1. The key issues for consideration in this case are:
- Principle of development
 - Design, and impact on the character of the area
 - Residential amenity

Principle of development

- 8.2. The principle of the change of use of agricultural land to residential garden is largely dependent upon the impact of the change of use upon the visual amenities of the area, and on designated heritage assets and their setting.
- 8.3. Planning permission ref. 98/01693/F resisted such a change of use in order to protect the sensitive site in the valley between the Sibfords which is within the designated conservation area and was designated as Area of High Landscape Value. Under that ref. planning permission was instead granted for the parcel of land subject of this application to be used for grassland orchard (2/3) and vegetables (1/3) and conditioned to ensure that, *inter alia*, no structures, buildings or enclosures were erected without the prior consent of the Local Planning Authority and that upon the cessation of its use [for orchard/vegetables] it shall be returned to agricultural uses.

- 8.4. However, the area of vegetable garden has been laid to hardstanding and has therefore clearly ceased to be used for the growing of vegetables. The conditions of planning permission ref. 98/01693/F required the land to be returned to agricultural land should the vegetable garden use cease. This has not happened, so technically the use of the site for residential garden is in breach of that planning permission.

Design, and impact on the character of the area

- 8.5. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 8.6. Policy ESD 13 of the CLP 2015 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Policy ESD 15 of the CLP 2015 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Further, development proposals will be required to conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation areas and their settings. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset.
- 8.7. Saved Policy C23 of the CLP 1996 states that there will be a presumption in favour of retaining buildings, walls, trees or other features which make a positive contribution to the character or appearance of a Conservation Area. Saved Policy C28 of the CLP 1996 seek a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development. Saved Policy C33 of the CLP 1996 seeks to preserve a view or feature of recognised amenity or historical value, such as trees of amenity value or the loss of features such as boundary walls where they constitute an important element of an attractive or enclosed streetscape.
- 8.8. Whilst it is undesirable for agricultural land to be incorporated into a residential garden and the Council generally seeks to restrict changes of use from agricultural to domestic each application must be considered on its own merits.
- 8.9. In this instance the parcel of land subject to this application is well defined and, given the existing presence of boundary planting, mature natural/ orchard trees, which are protected by virtue of their siting and size within a designated conservation area, and the terraced nature as it slopes northward, it is considered that its character and appearance as an area of land that bridges the domestic garden within the curtilage of Home Farm to the wider countryside and the sensitive Sib valley is retained.
- 8.10. In the intervening years the various planning applications at Home Farm have all included the land in question, which follows the same northern boundary line as that of the northern boundaries of the four Home Farm Court properties to the east. In addition, several of the properties to the east of the application site have had applications approved which include a red line plan up to the boundary with the agricultural field that lies to the north of the sites: No. 2 Home Farm Court

(98/00495/F, 12/01719/F & 17/01117/CLUP) and No. 4 Home Farm Court (21/01450/F).

- 8.11. Aerial images also support that the land at both No2 and No4 has been used as domestic garden since at least 2014 and No. 3 also appears to have been using their land as domestic garden for about the same time.
- 8.12. There would likely be a change of character of the site from the present orchard nature to a more domestic or 'manicured' garden and, while clearly delineated, it is relatively open and undeveloped, and is visible from the nearby footpath. Use as residential garden would normally bring with it permitted development rights which allow for erection of large outbuildings and 2 metre tall close boarded fences.
- 8.13. However, planning conditions to withdraw permitted development rights can be used to prevent the formation of new or inappropriate means of enclosure, or the erection of new outbuildings/structures which would be harmful to the sensitive nature of the site as it transitions into the countryside or to views into and across it.
- 8.14. For the reasons above it is considered that the principle of the change of use from agricultural to domestic is, on a fine balance, acceptable subject to the withdrawal of those permitted development rights.
- 8.15. The greenhouse and its associated paved area are of a modest scale and their design is appropriate for their use and a domestic setting and are not considered to adversely affect the character and appearance of the locality or the designated conservation area.
- 8.16. There is a short section of closed boarded fencing adjacent to the greenhouse, which is a jarring feature at the northern end of the eastern boundary, which is characterised by the lower open-natured stockfence with post and rail with wire mesh. On fine balance, because it is such a short section of fence relative to the overall lengths of boundaries, and because it is adjacent to the greenhouse, it is not considered so harmful as to warrant refusal of the application.
- 8.17. Overall, therefore, subject to conditions as noted above, the proposals accord with Policies ESD10, ESD13, and ESD15 of the CLP 2015, retained Policies C23 and C28 of the CLP 1996, and government guidance contained within the NPPF.

Residential amenity

- 8.18. The nature and modest scale of the greenhouse is not considered to result in harm to the amenities of the neighbouring properties. The use of the land for residential purposes would harm the amenities of the neighbouring properties.
- 8.19. The proposals therefore accord with Policy ESD15 of the CLP 2015, saved Policy C30 of the CLP 1996 and government guidance contained within the NPPF.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposals are considered to accord with the relevant Development Plan policies and are, on a fine balance and subject to conditions, considered to be acceptable.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form, the Site Location Plan (at a scale of 1:1250), drawing 001 Site Plan (at a scale of 1:200) and drawing 002 greenhouse elevations and floorplans (at a scale of 1:50)

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no fences, gates, walls or other means of enclosure shall be erected without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site given the basis on which planning permission has been granted and in order to safeguard the character and appearance of the area and to comply with Policies ESD13 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or reenacting or amending that order with or without modification) no building or structure [other than oil or LPG storage tanks and the building(s) already present on the site at the date of this planning permission] shall be erected or placed within the extended garden area hereby permitted without the grant of further specific planning permission from the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site given the basis on which planning permission has been granted and in order to safeguard the character and appearance of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Daisy Kay-Taylor

DATE: 17 May 2024

Checked By: Nathanael Stock

DATE: 17.05.2024
