

**CHERWELL DISTRICT COUNCIL**  
**TOWN AND COUNTRY PLANNING ACT 1990**

Appeal by Mr Rowland Bratt against the decision by Cherwell District Council to refuse planning permission for the erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use at Barn and Land South West of Cotefield Farm Church Street Bodicote.

Appellant	:	Mr Rowland Bratt
Appeal Site	:	Barn and Land South West of Cotefield Farm Church Street Bodicote
Appellant's Agent	:	Mr Roger Coy Roger Coy Partnership 32 Lime Avenue, Eydon DAVENTRY Northamptonshire NN11 3PG
LPA Reference	:	20/00841/F
PINS Reference	:	APP/C3105/W/20/3263029

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## **1 THE COUNCIL'S CASE**

- 1.1 The site and its context are set out within the officer's delegated officer report (DOR) and this has not significantly changed since the assessment of the application and preparation of the report. The policy context is also set out in DOR and this has not changed since the preparation of the report. The DOR has already been sent with the Questionnaire, and it is therefore not considered necessary to repeat these elements within the body of this statement.

- 1.2 The Council wishes to rely on the information contained within the DOR to support its case against the refusal of planning permission for the erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use at Barn and Land South West of Cotefield Farm Church Street Bodicote. However, the Council would also like to respond to matters raised within the applicant's 'Grounds for Appeal' statement dated November 2020, as set out below.

## **2 COMMENTS IN RESPONSE TO THE APPELLANT'S GROUNDS OF APPEAL**

- 2.1 The following comments are provided in the same order and referenced in the same manner as they appear in the Appellant's Grounds of Appeal Statement (GoAS).
- 2.2 Para. 6.1 of the GoAS notes that the building has increased beyond that normally approved under Class Q legislation. Whilst the proposals have been amended upwards the general footprint of the building has remained as approved under the original consent 16/01587/F. The Council submits that the fall-back position under Class Q is applicable to the general consideration of the principle of development (i.e. conversion of existing agricultural building) as considered during the original application 16/01587/F, that is, to the main dwelling and not to outbuildings. The Council submits that the restriction on the size of the residential land use is appropriate and necessary in the context of the site and its rural location and to ensure that the residential use does not significantly intrude into the undeveloped rural area.
- 2.3 Para. 6.2 of the GoAS discusses the extent of hardstanding which was fully assessed by officers at the time of the planning application. It is noted that Appellant's assessment of the nett increase in hardstanding does not include the additional area of hardstanding for the new/realigned access drive set away from the dwelling and which cuts a swathe across the existing paddock. The Council submits that the garage building and associated hardstanding, including access drive do not have the same functional/logical relationship that the existing hardstanding would have had with the original agricultural building and result in the residential use further extending out into the paddock. In this respect the proposed development is considered not to reflect or reinforce the historical agricultural character and rural context of the site, contrary to the provisions and aims of policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved policy C28 of the Cherwell Local Plan 1996.
- 2.4 In respect of the development approved under 20/01767/F the Council remains of the opinion that the siting of the approved garage is far more sympathetic to the context,

requiring less alteration of the existing landform (whereas the appeal proposal requires significant excavation works being set into the natural slope of the site) and would be less visually intrusive benefiting to a far greater extent from screening of the new dwelling and being set in a lower position (approximately 1.5m lower) within the site.

- 2.5 The Appellant suggests (GoAS para. 6.6) that the proposed garage approved under 20/01767/F blocks the principal elevation of the dwelling; no such concerns were raised by the Appellant at the time of the application and the approved garage is in the position as applied for; the Council assumes that the relationship between the garage and dwelling was considered acceptable by the Appellant as this was what was applied for. The approved garage scheme sits some 13.2m away with pitched roof sloping towards the dwelling, which allows for natural light to be received by the windows of the principal elevation. Views from the principal elevation would be restricted by the proposed garage; however, it should be noted that the approved layout of the dwelling (16/01587/F) included parking with indicative planting to the front of the dwelling, which would also potentially also affect views from the windows in the principal elevation.
- 2.6 The Council submits that the siting of the garage and associated hardstanding approved under 20/01767/F provides a more appropriate location, a more convenient access from the parking area to the dwelling, and also improved security through the degree of surveillance that would be had from the main dwelling. Whilst the Council remains of the view that the scale of the garage it approved could be considered excessive for a residential property, given its relationship to the new dwelling, with its design cues taking reference from its agricultural past, the Council is also of the view that the approved scheme presents a layout more akin to a more traditional farmstead where an arrangement of barns (potentially sometimes of a larger scale than typical residential garaging, as is the case in the approved scheme) might be seen in such rural locations.
- 2.7 Para. 6.7 of the GoAS notes officer comments within the DOR as to the proposals not causing harm to neighbouring properties. It is presumed that the Appellant's comments relate to para. 8.15 of the DOR which discusses potential impacts on residential amenity, and which were considered to be acceptable given the isolated rural context. The Council would wish to clarify that this does not mean that there would not be harm resulting from the development, but simply that in officer's judgement the proposals would not impact on the residential amenity of any nearby residential properties, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.

### **3 CONCLUSION**

- 3.1 The Council notes the NPPF's emphasis on good design, stated to be a key aspect of sustainable development, indivisible from good planning, and which should contribute positively to making places better for people and create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 3.2 The NPPF (Para. 130) advises that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Further that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.
- 3.3 The Council considers that by virtue of its inappropriate scale, design and siting within the rural landscape, the proposed garage, associated hardstanding and expansion of residential land use, from that previously approved under the original consent, would fail to reflect or reinforce local distinctiveness or the rural context, intruding out into the open countryside; causing significant and demonstrable harm to the character and appearance of the area.
- 3.4 The Council further submits that, if the appeal were to be allowed, given that the Council has already resolved to grant planning permission (20/01767/F) for a garage on the site, permission would exist for two very substantial ancillary buildings on the site, intensifying the residential use and built form of the site and exacerbating the demonstrable harm previously identified.
- 3.5 There remains a need to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 3.6 The proposals would provide ancillary accommodation to the existing dwelling, a benefit private to the applicant and therefore attracting limited weight, and would likely provide

some economic benefits to the local construction industry during construction (limited to moderate weight). However, it is considered that the proposals demonstrate clear conflict with the provisions and aims of the policies of the Development Plan, which seek to reinforce and reflect local distinctiveness and protect the District's valued rural landscape. It is considered that there would be significant adverse impacts to the natural environment (substantial weight), through intrusive development which fails to reflect or reinforce the local distinctiveness, and this harm would outweigh the limited benefits of the proposals and as such the proposals do not constitute a sustainable form of development.

- 3.7 The Council therefore submits that the appeal proposal clearly conflicts with Development Plan policy as well as Government guidance contained within the National Planning Policy Framework for the reasons set out in its decision notice and this statement of case. Accordingly, the Inspector is respectfully requested to uphold the decision made by the Local Planning Authority and dismiss this appeal.

#### **4 SUGGESTED CONDITIONS**

- 4.1 If, notwithstanding the above, the Inspector is minded to allow the appeal, the following conditions are suggested as necessary to make the development acceptable:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents: Supporting Statement dated July 2020, Ecological Mitigation & Enhancement scheme prepared by Cotswold Wildlife Surveys dated the 9th December 2019 and drawings numbered: 4728/Map-C, 4728/20-H, 4728/21-H, 4728/22-E and 4728/23-F.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

3. Notwithstanding the information submitted, no development shall commence unless and until a detailed scheme for the surface water drainage of the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and brought into use prior to the first occupation of the building to which the scheme relates.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

4. The development hereby approved shall not be carried out other than in accordance with the recommendations set out in Sections 3 and 4 of the Ecological Mitigation & Enhancement scheme prepared by Cotswold Wildlife Surveys dated the 9th December 2019.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

## PLANNING NOTES

1. **Conditions** – the applicant’s attention is drawn to the need to comply with all conditions imposed on this permission. Failure to do so could result in the council serving a breach of condition notice against which there is no right of appeal.
2. **Ecology** - Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered, you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.

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3. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.