

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Mr Geoffrey Richard Noquet against the refusal of planning permission for the re-position and amend the structure of the previously allowed 3 bedroom building at The Pheasant Pluckers Inn, Burdrop, OX15 5RQ.

Local Authority Reference: 21/04166/F

Planning Inspectorate Reference: APP/C3105/W/22/3295704

STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

1. INTRODUCTION

- 1.1. This statement is produced in respect of the appeal by Mr Geoffrey Richard Noquet against the refusal of planning permission for the re-position and amend the structure of the previously allowed 3 bedroom building at The Pheasant Pluckers Inn, Burdrop, OX15 5RQ.
- 1.2. The location of the appeal site (“the Site”) is The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ.
- 1.3. Following consideration of the planning application the Council concluded that the proposal was not considered acceptable and refused the application for the following reasons:
 1. *The proposed cottage, by reason of its prominent siting, scale and unsympathetic appearance is considered to be inappropriate development within the context, appearing as an incongruous feature within the street scene causing undue harm to the character and appearance of the Sibford Gower and Burdrop Conservation Area, the setting of the public house, a non-designated heritage asset, and, together with the approved single storey holiday let, would close the feature gap between the public house and Barn Close disrupting views through to the surrounding valued countryside. The public benefits of this proposal do not outweigh this harm. The proposed development is therefore contrary to Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 Part 1, saved policies C28, C30 and C33 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.*
 2. *The proposed parking within the grass verge is located outside the red line plan and would result in the loss of an area of grass verge to the detriment of the character of the Sibford Gower and Burdrop Conservation Area. The public benefits of this proposal do not outweigh this harm. The proposed development is therefore contrary to Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 Part 1, saved policies C28, and C30 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.*
- 1.4. The Council’s case in this appeal is principally as set out within the Officer’s report for the planning application, copies of which have already been supplied to the Planning Inspector. This Statement does not intend to repeat or duplicate the arguments and Policy justifications set out in the officer’s report, but instead focuses on any additional points of relevance since the determination of the application, and responding to, and clarifying, the key issues that arise from the appellants’ grounds of appeal.

2. COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

- 2.1 At paragraph 2.1 of his statement the Appellant contends that the application was refused based upon a technicality and that this was the justification in the refusal. The first reason of refusal outlines that the proposal was considered by the Council to represent an inappropriate development on the Site due to the prominent siting, scale and unsympathetic appearance of the proposed cottage. Paragraph 206 of the NPPF highlights that *local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.* The fact that the appellant had implemented the first permission meant that this existing permission, no matter what stage of implementation, was a material consideration in the proposal. This was a concern raised in the comments of the Council's Conservation Officer with reference to the potential harm caused by the accumulative impact on the character and appearance of the Conservation Area as well as the setting of the adjacent heritage assets which make up the character of the Conservation Area.
- 2.2 The Council respectfully disagrees with the Appellant's suggestion that the Council acted unreasonably. Although the Appellant has suggested that the issue over the development of two buildings could be covered by either a unilateral undertaking or a condition it is noted that there is no suggestion in the appeal statement that the Appellant is offering this as part of the appeal. Furthermore, without any restrictions the owners of the site would be able to implement both permissions, to the detriment of the character and appearance of the Conservation Area.
- 2.3 Notwithstanding the above, the Council submits that the first refusal reason is not just about the development of two buildings but the impact of the proposal in itself. As outlined in the first reason to refuse the application, the Council makes the case that the development as proposed would appear as an inappropriate development causing harm to the Conservation Area as well as the setting of the public house, a non-designated heritage asset. This harm arises as a result of the domestic style and appearance of the proposal along with the overall scale of the development within the grounds of the public house. As outlined in the officer's report, the scale of the development alongside that of the approved holiday accommodation would result in the loss of the feature gap between the public house and Barn Close. As such the Council considered that the negotiation of a unilateral undertaking, along with the cost to the Appellant during the planning application process would not have overcome the reason to refuse the application. For this reason, the use of a unilateral undertaking would not have been in the best interests of the Appellant during the planning application process.
- 2.4 On the point made by the Appellant that the Council did not liaise with the Appellant to address the reasons of refusal the Council would respond that, due to the level of applications the Council deals with its advertised protocol is to only negotiate where the proposal requires minor changes to make the scheme

acceptable. In this instance it was considered that due to the scale, design and prominent position of the proposal the alterations required would require greater changes to a point of a re-design rather than minor alterations. As such the application was refused.

- 2.5 At paragraph 2.3 of his statement, the Appellant contends that the Council published an incorrect comments due date of 17/02/2022 and that correct date is 11/02/2022. The Council accepts that the date for the determination of this application was 11/02/2022 being eight weeks following submission. However, in order to allow time for the site notice and to take into account any comments received as a result of the site notice, an extension of time to 21/02/2022 was requested to which the Appellant agreed and therefore this became the revised target determination date.
- 2.6 Turning to paragraph 2.4 of the Appellant's statement the Council disagrees that the Conservation Officer's comments carry little weight in that the Council's Conservation Officer provided professional advice on the proposal and highlighted the potential harm the development would cause on the Conservation Area. Paragraph 199 of the NPPF also highlights amongst other things that, *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (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.* The fact that the Inspector highlighted the importance of the gap in Conservation Area in paragraph 9 of the previous appeal further underlines the importance of the comments raised by the Conservation Officer. Under this previous appeal the Inspector highlights that

“views of the Sibford Gap across the carpark of the PH are currently possible from the green mentioned above, the adjacent roads and neighbouring properties. These views would be largely retained, firstly, as a good sized gap between the proposed single storey building and Barn Close would be maintained and secondly because the building would, in the main, be viewed against the backdrop of the PH. Thirdly, the elevated position of the adjacent roads and buildings in relation to the appeal site, combined with the single storey form of the proposed building, would mean any reduction in view would not be significant nor would it cause harm”.

A copy of the previous appeal decision has been provided for the Inspector attention as appendix A attached to this appeal statement.

- 2.7 The Council disagrees that the proposed structure is only single storey, the plan clearly shows a first floor accommodation although it is accepted that this is located in the roof space, however, as a result of this arrangement the height of the building is increased to allow for the head room of the first-floor accommodation. The appearance of the proposal will appear as a domestic building and this view is emphasised by the large rear and side dormer windows which would be visible from the public highway. This domestic cottage appearance within the grounds of the public house will not appear as part of the

ancillary outbuildings often found in the grounds of public houses unlike the accommodation approved under the previous appeal. This point was highlighted by the inspector in the previous appeal where in paragraph 10 the Inspector highlights that

“there is nothing before me to lead me to conclude that the proposed building would appear as anything other than an ancillary building to the PH as it would be single storey and sited clearly within the PH’s curtilage. It would simply appear as a continuation of the ad-hoc nature of ancillary style buildings which currently exist around the PH, such as the converted bottle store. Neither would it close the gap between the PH and neighbouring buildings in a harmful Appeal Decision APP/C3105/W/16/3165654 3 way. The PH would still appear as a building on the edge of Burdrop slightly separate from the rest of the village.”

- 2.8 Paragraph 9.8.1 of the Sibford Gower and Burdrop Conservation Area appraisal highlights that, *“Burdrop has clustered streets which provide limited glimpsed views across the valley with closed internal views. Burdrop does not have the high boundary walls which protect the larger, higher social properties found in Sibford Ferris but low (less than 1.2m high) rubble stone retaining walls where the cottages sit close to their boundary edge”*. The stone boundary wall to the Site, although higher than the 1.2m stated in the appraisal, is still of a height to allow views over from the adjacent village green. The proposal to close the gap between the public house and the neighbouring property would result in a change in the appearance and character of this section of the Conservation Area. Views from the village green over the stone wall towards the valley would be lost as a feature within the Conservation Area to the detriment of the area. A copy of the Conservation Area appraisal is provided as appendix C attached to this statement.
- 2.9 In comparing the scale of the proposed building with that of the approved 3-bedroom accommodation it is clear that the current proposal is of a significantly larger scale. The Council does not agree with the Appellant’s view as expressed in their paragraph 2.9 that the proposal is of the same scale to that of the previously approved scheme. The as approved scheme was for a low-level three-room accommodation whereas this current appeal proposal is for a detached cottage with 3-bedrooms on the first floor with separate kitchen, large dining room and lounge area on the ground floor. A copy of the appeal plans is provided for the Inspectors attention under appendix B attached to this appeal statement. The Council are of the opinion that due to the scale, design and appearance of the proposed cottage with bulky dormer windows on the rear and side elevations would appear as a large domestic dwelling out of place within the grounds of the public house and to the detriment of the Conservation Area.
- 2.10 The second reason to refuse the application related to the issue of parking in that the submitted details stated parking, presumably for the proposed cottage, was to be provided on the grass verge to the north of the application site. There are two issues with this proposed parking. The first is that that the parking is located outside the red line plan and hence the application site which has now been accepted by the Appellant in paragraph 2.5 of their statement in that it is accepted that the area shown as parking is not owned by the Appellant. The second point

to consider is that the area shown as parking is an area of verge which is not level but slightly banked and the use of this area as parking would damage this grass verge to the detriment of the Conservation Area. There is little to no evidence to suggest that this area of verge is or has been used on a regular basis for parking. Concern over the loss / damage to village greens and verges has been highlighted in the Conservation Area appraisal. Under paragraph 9.12 of this appraisal one of the highlighted threats to the Conservation Area is *further erosion of the soft edges of the village greens and verges*. The use of the green verge for parking will clearly erode the soft edge and result in harm to the Conservation Area as highlighted in the Conservation Area appraisal.

- 2.11 Paragraphs 2.6 to 2.8 of the Appellant's statement refer to a complaint on how the Council dealt with the planning application. The Council submits that the Appellant needs to take these issues up with the Council through the Council's complaints procedure and is not an issue for the appeal, which needs to concentrate on the planning merits of the proposal. Notwithstanding this point the issue over comments received as part of the public consultation process, the Council would state that due to the number of applications considered by the Council and the level of comments received it is not possible to vet all comments received. All comments are considered as part of the officer's assessment of a planning application. However, just because negative comments are received does not mean that an application must be refused; a professional judgement is made by the case officer. This was the case in this particular application; the decision to refuse the application was not solely or mainly based upon public comments received.
- 2.12 The Appellant mistakenly states that the Sibford Parish Council was in support of the proposal whereas both Sibford Ferris Council and Sibford Gower Parish Councils *objected* to this proposal. Details of the comments and objections have been provided to the Planning Inspectorate so will not be reproduced in this statement.
- 2.13 The Council accepts the point that support for rural businesses and the encouragement of tourism is an important aspect of rural areas. The principle of tourism in the rural area is not however, a reason to refuse the planning application but the impact of the development upon the character of the Conservation Area would outweigh the benefits of the holiday accommodation in this instance. This is not to suggest that any form of holiday development would be unacceptable on this site as highlighted by the previous appeal decision to allow the development of the smaller scale 3-bedroom accommodation on the Site.
- 2.14 The Council does support schemes which aim to assist in the viability of existing public houses and small-scale rural businesses, but this is not to suggest that any scheme would be approved purely on the basis that it is suggested that this would assist a rural business. An assessment of the development must be carried out to review the potential harm of the proposal and if this would be outweighed by the benefits. It is also the case that all applications are to be considered on their own merits. Although it is accepted that there are other examples of extensions provided by the Appellant which do show varying

extensions and new builds on other public houses in the District. However, as already mentioned all applications need to be considered on their own merits and just because a scheme is approved in one location does not mean that a scheme must be approved in another. In this instance sound reasons to refuse the application have been provided in the decision notice for the application.

3. CONCLUSION

- 3.1. 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.
- 3.2. This application sought planning permission for the development of a two-storey 3-bedroom cottage on the Site which was stated as being an alternative location and design to a single storey building approved on appeal for holiday let.
- 3.3. The previous appeal approval was for smaller single storey structure providing three separate rooms with en-suite facility and attached to the converted bottle store to the pub. However, the Appellant had stated that the permission for the single storey building granted on appeal had been implemented but work stopped. The fact that this approval had been implemented meant that the application the subject of this appeal needed to be considered as in addition to the previous appeal approval. The result of this would have created two buildings within the gap between the pub and the neighbouring property known as Barn Close. In considering the previous appeal the Inspector highlighted that one of the reasons to consider the appeal as acceptable was the fact that the development maintained the gap between the two buildings. In the current proposal the gap would be closed and this feature in the Conservation Area would be lost the permission was therefore refused.
- 3.4. The principle of a holiday let on the Site in association with the pub is considered acceptable.
- 3.5. The design and appearance of the cottage is larger and bulkier than the previously approved scheme. The design appears as a more domestic style out of place as an outbuilding associated with the public house. The design therefore appears to the detriment of the Conservation Area character.
- 3.6. The suggested area of parking to the front of the cottage is both limited in terms of details and would result in the removal of a large area of grass verge which is a particular character of this part of the Conservation Area. Then removal of this section of grass verge would have an adverse impact on the character of this part of the Conservation Area. The area shown as parking is outside the Appellants site and ownership and as such cannot be considered as parking in association with the appeal proposal.

4. CONDITIONS

4.1. The Inspector is requested to dismiss the appeal. However, if the Inspector is minded to allow the appeal and grant planning permission the Council, request that due consideration be made to the suggested conditions attached to this statement.

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 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 information contained within the application form and the following approved plans reference Site location plan, Block and layout plan, received 15/12/2021 and cottage elevations and floor plans, received 17/12/2021.

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.

3. A schedule of materials and finishes to be used in the external walls and roof of the dwelling shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 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.

4. Before any above ground works commence a scheme for the provision and implementation of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved plans before the first occupation of any of the apartments hereby approved.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011–2031 Part 1, saved Policy ENV1 of the Cherwell Local

Plan 1996 and Government guidance in the National Planning Policy Framework.

5. Details of the construction, including cross sections, cill, lintel, reveal and colour / finish of the proposed windows/doors, to a scale of not less than 1:20 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work. The development shall be carried out in accordance with the approved details.

Reason: To preserve the character and appearance of the conservation area in accordance with Policy ESD15 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.

6. No construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays, Bank and Public Holidays.

Reason: In order to protect the amenities of occupiers of nearby properties from noise outside normal working hours and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996.

7. The holiday accommodation hereby permitted shall not be occupied for more than 28 days in any calendar year by any individual person or groups of persons unless otherwise approved in writing by the Local Planning Authority. A register of occupancy shall be kept and made available for inspection by the Local Planning Authority at the end of each calendar year.

Reason: It is the policy of the Local Planning Authority not to approve new dwellings in the open countryside in the absence of special justification in accordance with paragraph 79 of the National Planning Policy Framework.

8. The holiday accommodation hereby approved shall be occupied solely in conjunction with and ancillary to The Pheasant Pluckers public house and shall not be sold, leased or occupied as a separate unit of accommodation.

Reason: This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent, in accordance with Saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the development commencing a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: To avoid noise giving rise to significant adverse impacts on health and quality of life and to comply with advice in the NPPF (section 15) and Saved Policy ENV1 of the Cherwell Local Plan 1996

10. Prior to the first use of the development hereby approved details of the external lighting/security or floodlighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: To protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996

11. Notwithstanding the provisions of Classes A-D (inc) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement, alteration or improvement of the dwellinghouse shall be undertaken at any time without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

12. 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 re-enacting or amending that order) no building or structure [other than oil or LPG storage tanks] shall be erected or placed within the curtilage of the dwelling hereby permitted without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the character and appearance of the area in accordance with Policy ESD15

of the Cherwell Local Plan 2011 – 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

13. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

14. Full details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on the external elevations of the buildings shall be submitted to and approved by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011–2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

APPENDICES

APPENDIX A and A(2): Plans for previous appeal decision

APPENDIX B: Appeal decision notice reference APP/C3105/W/16/3165654

APPENDIX C: Sibford Gower and Burdrop Conservation Area appraisal