

Case Officer: Bob Neville

Recommendation: Approval

Applicant: Mr & Mrs Besterman

Proposal: Variation of Condition 2 (plans) of 16/01563/F - alterations to the design of the replacement dwelling, the erection of a replacement outbuilding, provision of a new 2m high wall and demolition of two bays of a stable building

Expiry Date: 29 November 2019

Extension of Time: 29 November 2019

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to a site that previously comprised of a single, detached dwelling, four large agricultural buildings (two detached, the other two linked to a neighbour's outbuildings) and other smaller structures enclosed by hedges, and other hardstanding, as well as a manège to the west of the dwelling. A large area of agricultural land is also included within the blue line, i.e. the applicant's ownership, covering broadly 440 metres in a west-east direction and 290 metres in a north-south direction and bounded to the west by the county boundary between Oxfordshire and Warwickshire. This boundary also marks the eastern edge of the Cotswolds Area of Outstanding Natural Beauty. The site is accessed from Colony Road, a classified road, to the east. There are records of bats in the area. There are no other notable site-specific constraints relevant to planning and this application.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The application comes following the granting of planning permission 16/01563/F, allowed at appeal, for the proposed 'Demolition of an existing dwelling and a range of large-scale equestrian buildings and the erection of a replacement dwelling including associated works and landscaping (revised scheme of 15/01693/F)', granted planning permission on 31st of October 2017.

2.2. There have been subsequent Section 73 applications (18/00616/F & 18/00793/F) which gained approval for minor material amendments to the proposed layout, scale and design of the proposed dwelling and the construction of a replacement outbuilding, varying the scheme from that as previously approved under the original application 16/01563/F.

2.3. This application is a further Section 73 application and seeks approval for further amendments (including the amendments previously approved) to the approved scheme, but now also including:

- Provision of a new 2m high boundary wall; and,
- Demolition of two bays of the existing stable building

2.4. Additional plans/details have been received during the application in response to officer concerns in relation to the lack of detail in respect of the proposed new wall and elevational changes to the stable building. Unfortunately, this has resulted in the application going beyond its original statutory target date, to allow for appropriate consideration of such revised details.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
16/01563/F	Demolition of an existing dwelling and a range of large-scale equestrian buildings and the erection of a replacement dwelling including associated works and landscaping (revised scheme of 15/01693/F)	Application Refused Allowed at appeal
18/00616/F	Variation of Condition 2 (Plans) of 16/01563/F and Appeal ref: APP/C3105/W/17/3173098	Application Permitted
18/00793/F	Variation of Condition 2 (plans) of 16/01563/F (Appeal reference - APP/C3105/W/17/3173098) - minor material amendments involving alterations to the design of the replacement dwelling as well as the erection of a replacement outbuilding	Application Permitted
18/01167/F	Creation of new driveway and part removal of existing driveway	Application Permitted
18/00358/DISC	Discharge of Conditions 3 (dormers), 4 (materials), 5 (stone sample), 6 (doors and windows), 7 (FFLs), 10 (tree survey), 15 (badger check), 16 (Biodiversity enhancement) and 18 (access) of 18/00793/F	Application Permitted
19/02372/DISC	Discharge of Condition 8 (hard and soft landscape works) of 18/00793/F	Under Consideration

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 and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **27 September 2019**.

5.2. No comments have been raised by third parties.

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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. SIBFORD GOWER PARISH COUNCIL: **No objections**

STATUTORY CONSULTEES

- 6.3. LOCAL HIGHWAYS AUTHORITY: **No objections.**
- 6.4. NATURAL ENGLAND: No comments received

NON-STATUTORY CONSULTEES

- 6.5. BUILDING CONTROL: **No objections**, subject to compliance with building regulations
- 6.6. ENVIRONMENTAL HEALTH: **No objections**

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 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 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 2031)

- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD12: Cotswolds AONB
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- H17: Replacement dwellings
- H18: New dwellings in the countryside

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 National Planning Policy Practice Guidance (PPG) advises:

In deciding an application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under Section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20180615)

8.2. As such, the assessment in this case is limited to considering the merits of the applicant's request for the revision of Condition 2 of 16/01563/F (approved plans condition), to be varied to allow for the proposed 2m high wall and reduction in the size of the existing stable building, in addition to the amendments previously approved under 18/00616/F & 18/00793/F.

8.3. Given the context of the site nature of the proposed amendments to the approved scheme, it is considered that the only impacts would be those on the overall appearance of the scheme and the visual amenities of the site and its setting within the wider landscape.

Principle:

8.4. The principle of development was previously considered acceptable with the granting of permission 16/01563/F. Previous amendments to the scheme have also been considered acceptable with the granting of permissions 18/00616/F & 18/00793/F.

8.5. The proposed short sections of 2m high wall and reduction in the size of the existing stable building detailed above are considered to be relatively minor amendments in the context of the wider scheme of proposed development. It is considered that the amendments now proposed do not introduce any further considerations that would result in the principle of the development no longer being seen in a favourable light.

Design, and impact on the character of the area:

8.6. The proposed amended siting, scale and additional fenestration for the proposed dwelling and the proposed new outbuilding have been previously been assessed and considered acceptable with the granting of the relative permissions 18/00616/F & 18/00793/F; these elements are again considered acceptable in the context of this revised scheme.

8.7. In respect of the proposed new section of wall and partial demolition of the existing stable building it is considered that these elements would not have any significant detrimental impact on the visual amenities of the site. The proposed new wall would largely be constructed on a similar footprint of the area of the stable building to be partially demolished and would not appear out-of-place in the context of the surrounding structures.

8.8. The proposed amendments to the stable building would essentially see the removal of the end two bays in the northern section of the building, providing separation between the existing building and the retained structures on the adjacent property; retaining the existing character and appearance of the building albeit on a reduced scale.

8.9. Proposed materials for the development have previously been approved under 18/00358/DISC, and subject to the revised scheme being carried out in accordance with the approved details officers consider that the proposals are acceptable in this respect.

8.10. Overall it is considered that the proposed amendments would not result in a scheme that would intrude into the open countryside to any greater extent than the previously approved scheme and would not adversely affect the character of the

countryside or the character and visual amenity of the local landscape. The proposals are therefore considered acceptable in this regard.

Residential amenity:

- 8.11. As identified during the previous application, the proposed dwelling is located at a sufficient distance (approx. 48–50m) so as not to materially impact on the living conditions of New Barn Farm, the only neighbouring occupier. The proposals would see the removal of an existing building on the boundary of the applicant's ownership proposed to be replaced by a building further removed from the boundary. As noted above the proposed partial demolition of the stable building would also have the effect of providing separation between the site and the neighbouring property to the north.
- 8.12. It is considered that the proposed amendments detailed above would not introduce any further impacts on the residential amenity of neighbouring properties above those assessed and considered acceptable under application 16/01563/F. The proposed amendments are therefore again considered acceptable in this regard.

Highway safety:

- 8.13. The LHA has again assessed the proposals and raises no objections. The proposals would not introduce any further impacts on highway safety above those assessed and considered acceptable under application 16/01563/F. As noted in the previous application 18/00793/F the proposed new outbuilding would provide a similar level of garaging as that which it is proposed to replace, as detailed in the original scheme, and provides further facilities which would be ancillary and incidental to the use of the proposed new dwelling.
- 8.14. Details of the access and parking and manoeuvring areas development have previously been approved under 18/00358/DISC. Subject to the revised scheme being carried out in accordance with the approved details it is considered that the proposals would not significantly impact on the safety and convenience of highway users and are therefore again considered acceptable in terms of highway safety.

Ecology and Biodiversity:

- 8.15. The proposed amendments would not result in any further impacts on features of Ecological or Biodiversity value, above those previously assessed and considered acceptable during the assessment of application 16/01563/F; and are therefore again considered acceptable in this regard.

Other Matters:

- 8.16. As this application is a S73 application, it is necessary to repeat all conditions attached to the original permission, as amended, as the result of the approval of this application would be a new planning permission. The PPG makes it clear that: *"where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended (Paragraph: 015 Reference ID: 17a-015-20140306)"*.
- 8.17. The conditions attached to the original consent 16/01563/F have therefore been updated to reflect the variation to the approved plans condition (condition 2) that is the subject of this application and those that have been previously been addressed through the approval of the clearance of conditions application 18/00358/DISC.
- 8.18. As noted within the previous application 18/00793/F 'Landscaping Proposals' plan (Drwg. No. 1353.01C), approved under the original application 16/01563/F, is effectively out-of-date given that the layout and landscaping have changed as a result of the inclusion of the outbuilding, partial demolition of the stable building and associated hard landscaping (including revised boundary walls) proposed under this application. However, the plan is considered relevant insofar as it is indicative of the extents of the residential garden area, as noted by the Inspector in his appeal

decision on the original application (16/01563/F). It is therefore considered appropriate to again include this plan within the approved plans condition (condition 2) but only insofar as to indicate the extents of residential garden areas.

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 principle of development and detail of such has previously been considered acceptable with the granting of the original permission 16/01563/F. Subsequent amendments to the original consent have also previously been considered acceptable with the granting of permissions 18/00616/F and 18/00793/F. Given the above assessment it is considered that the proposed further amendments now proposed, including new boundary wall and reduction of the stable building, are generally considered acceptable in terms of visual amenity, residential amenity and highway safety and introduce no further impacts above those which have previously been assessed and considered acceptable, with the approval of the previous consents.
- 9.3. The changes to the original scheme proposed within this application do not introduce any further considerations that would now suggest that the proposals should not be seen in the same favourable light as has previously been adopted following the approval at appeal and the approval of the preceding S73 applications 18/00616/F and 18/00793/F. The application is therefore recommended for approval as set out below.

10. RECOMMENDATION

That permission is **granted**, subject to the following conditions:

1. The development hereby permitted shall begin not later than 31 October 2020.
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. The development hereby permitted shall be carried out in accordance with the following approved plans: 1759.160F, 1759.161E, 1759.162D, 1759.163B, 1759.164B, SK16A, SK17B, SK18 and 18-109/15 submitted with this application and drawings numbered: 1759.165B, 1759.127A, 1759.128A, 1353.01C (only insofar as it establishes the extent of the domestic garden) and the site location plan, previously approved under application 16/01563/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 comply with Government guidance contained within the National Planning Policy Framework.
3. The development shall be carried out in accordance with the architectural detailing approved under application 18/00358/DISC and retained as such thereafter.
Reason: To ensure the satisfactory appearance of the completed development and that the development and to comply 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. The relevant works shall be carried out in accordance with the external facing materials approved under application 18/00358/DISC and shall be retained as such thereafter.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply 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.

5. The external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the natural ironstone sample panel approved under application 18/00358/DISC and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and that the development and to comply 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. The doors and windows shall be installed within the development in accordance with the details approved under application 18/00358/DISC and shall be retained as such thereafter.

Reason: To ensure a visually appropriate form of development and to safeguard the landscape character and visual amenity of the area and to comply 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.

7. The development shall be carried out in accordance with the finished floor levels approved under application 18/00358/DISC.

Reason: To ensure a visually appropriate form of development and to safeguard the landscape character and visual amenity of the area and to comply with Policies ESD13 and 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.

8. The development shall not be occupied unless and until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas, including plant schedule and specification (BS4428:1989 and National Plant Specification),

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard surface areas, including steps.

The hard-landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Reason: In the interests of the visual amenities of the area, to ensure the

creation of a pleasant environment for the development, and in the interests of highway safety, and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the first occupation of the development, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all tree pits located within the landscaped areas, to include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and specifications.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply 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.

10. The development shall be carried out in accordance with the Arboricultural Report, Impact Assessment and Method Statement approved under application 18/00358/DISC.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply 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.

11. Except where expressly shown on the drawings hereby approved as listed in Condition 2 of this permission, all existing hedgerows for the northern, western, eastern and southern field application site boundaries shall be retained, with a minimum maintenance height of 3 metres for landscape mitigation.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply 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.

12. All species used in the planting proposals associated with the development shall be native species of UK provenance.

Reason: To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply 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.

14. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

15. The development shall be carried out in accordance with the 'Update Badger Survey' prepared by 'BSG Ecology' approved under application 18/00358/DISC.

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.

16. The development shall be carried out in accordance with the biodiversity enhancement measures approved under application 18/00358/DISC. Those measures shall be carried out prior to the first occupation of the development unless an alternative timescale has been agreed in writing by the local planning authority, and shall be retained as such thereafter.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

17. The development hereby approved shall be carried out in accordance with the recommendations and working practices set out in sections 4.4 and 4.5 of the 'Extended Phase 1 Survey assessment and Bat Survey' carried out by Wild Service Ecological Consultancy in July 2014 (submitted alongside ref 16/01563/F).

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.

18. Prior to the first occupation of the dwelling, the access and access road and turning area shall be constructed in accordance with the details approved under application 18/00358/DISC and 18/01167/F and shall be retained as such thereafter.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development 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.

19. The rainwater goods installed to serve the development hereby permitted shall be cast iron or profiled aluminium and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and that the development and to comply with Policy 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.

20. Prior to the first occupation of the development hereby approved, the existing dwelling and associated structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason: In the interests of the visual amenities of the area, in order to achieve a satisfactory form of development and prevent a net increase in residential dwellings in this environmentally and socially unsustainable location and to comply with Policies Villages 1, ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies H18 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no development within Part 1 or Part 2 shall take place.

Reason: To enable the Local Planning Authority to retain planning control over the development of this site and to in order to safeguard the openness and rural character of the area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Bob Neville

DATE: 03/12/2019

Checked By: Nathanael Stock

DATE: 06.12.2019
