

JPPC ref: DB/7857

Planning Service  
Cherwell District Council

SUBMITTED VIA PLANNING PORTAL

26<sup>th</sup> March 2020

Dear Sir / Madam

**RE: Application for planning permission for creation of single dwellinghouse through conversion and partial re-building of existing barn with parking, amenity space, landscaping and associated works in replacement of dwellinghouse permitted under 18/01094/Q56**

**AT: Top Barn Farm, Sibford Gower**

**Introduction**

Please find enclosed a planning application in relation to the development of a single home at Top Barn Farm in replacement of the permitted scheme 18/01094/Q56 allowing creation of a two bedroom dwelling upon the same site.

This application submission consists of the following documents/plans:

- This covering letter and Planning Statement;
- The planning application form;
- Agricultural holding plan at 1:5000 ref. 19\_015\_001;
- Site location plan at 1:1,250 ref. 19\_015\_002;
- Existing block plan at 1:500 ref. 19\_015\_003;
- Existing floor plans at 1:100 ref. 19\_015\_004;
- Existing elevations at 1:100 ref. 19\_015\_005;
- Proposed block plan at 1:500 ref. 19\_015\_102A;
- Proposed floor plan at 1:100 ref. 19\_015\_103B;
- Proposed elevation at 1:100 ref. 19\_015\_104B;
- Planning application fee of £462 paid via Planning Portal.

**Site and surroundings**

Top Barn Farm is located around 900m north of Sibford Gower and the nearby village of Burdrop and features a collection of agricultural buildings of varying ages and construction. The buildings subject of this application are a stone barn, and frame barn with blockwork walls along with the associated agricultural yard in which they stand.

The John Phillips Planning Consultancy

Partners:

Adrian Gould MRTPI Ltd

Neil Warner MRTPI Ltd

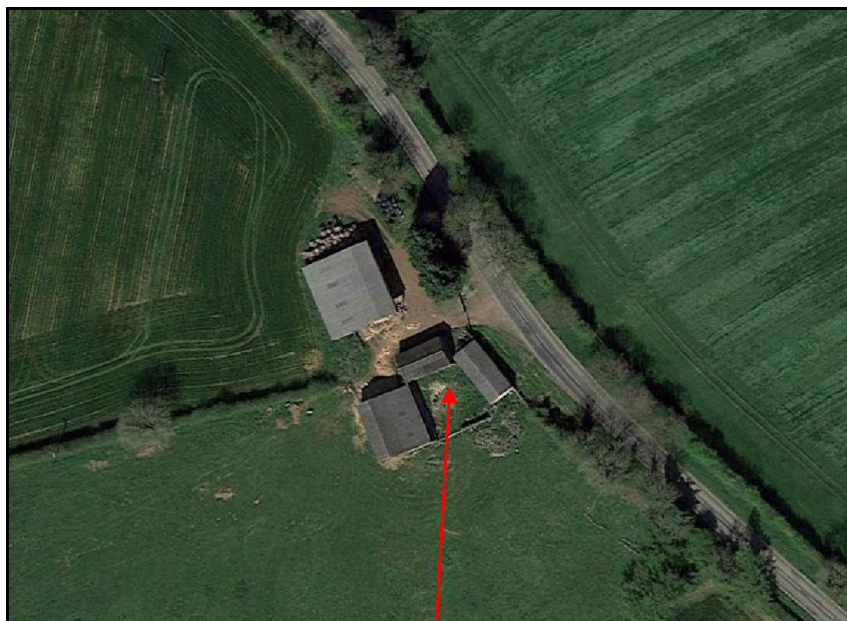
Henry Venners Ltd



Bagley Croft  
Hinksey Hill  
Oxford OX1 5BD  
T: 01865 326823  
E: [planning@jppc.co.uk](mailto:planning@jppc.co.uk)  
W: [www.jppc.co.uk](http://www.jppc.co.uk)

The buildings are functional agricultural buildings, with the northern structure an attractive brick barn. They benefit from planning permission 18/01094/Q56 which allows their conversion to a two-bedroom dwellinghouse by virtue of Class Q of Part 3 of the General Permitted Development Order. Two other larger barns in the complex remain permitted for agricultural use.

Although the site benefits from planning permission to provide a dwellinghouse the applicant would prefer to provide a more positive development for the site and its surroundings; this submission is made to further that aspiration. An aerial photograph showing the proposal site and its surrounding is provided below for reference.



*Buildings subject of application*

The application site is not located within a conservation area or area of outstanding natural beauty, nor is it included in the Oxford Green Belt. The land is not in an area at risk of flooding according to the Environment Agency's online map which shows it to lie in Flood Zone 1. No public footpaths or other rights of way cross the site, although footpath 348/12/10 passes immediately to the south.

The site benefits from access to the B4025 which passes to the east. The access is surfaced and serves the existing farm buildings and surrounding land.

The site does not have any residential neighbours with agricultural land to the north, south, and west. The public road B4025 forms the eastern boundary with agricultural fields beyond. Although not within a settlement the site does benefit from access to the villages of Sibford Gower and Burdrop which are within walking and cycling distance being around 900m to the south.

The site has limited planning history with the only application recorded on the online planning register that for the conversion of the two barns to a two bedroom dwellinghouse (18/01094/Q56). The permission allows for conversion of the two barns to provide a single dwelling with accommodation split across the detached buildings. The scheme also provides a residential curtilage in line with the permitted development right. The permitted scheme has not been implemented, it does though remain extant with a good period of time for the approved development to be undertaken.

## **Proposed development**

This application seeks planning permission to provide a detached family home in place of the dwelling already permitted upon the site. The proposed dwelling has been designed to maintain the best aspects of the approved development while improving upon it. The proposal would provide a better standard of living for residents of the proposed home by providing all accommodation within one building (with the appearance of two), rather than spread across two detached structures.

The proposed home provides two bedrooms in a building of 176sq. m. and would benefit from a private garden in the enclosed yard to its southern side. A dedicated parking area would be provided in part of the current agricultural yard to the north with two spaces along with turning space.

The home is to be formed through the conversion of the brick barn, retaining the agricultural building of greatest merit, and replacement of the blockwork barn which has been permitted for conversion with a new-build wing.

The newly constructed element is to have the appearance of a separate structure set at right angles in a yard arrangement. The development will maintain the character of a yard of agricultural barns. The new wing is to be constructed with ironstone walls and timber cladding offering visual improvement over the current blockwork structure.

## **Relevant Planning Considerations**

### *Principle of development*

The proposed scheme involves the conversion of a traditional brick barn, it is therefore considered to be supported in principle.

Saved policy H19 supports the conversion of rural buildings on the condition that it can be achieved “*without major rebuilding or extension*”. Extant planning permission 18/01094/Q56 confirms a dwelling of the size and style proposed can be provided without major rebuilding or extension, the building is therefore accepted as suitable for conversion under policy H19, but that is not to say the scheme cannot be improved upon.

The proposal subject of this application includes an element of new-build development with the south projecting wing a replacement, rather than re-use, of the existing structure. The applicants acknowledge the level of replacement could go beyond that ordinarily supported by the Council, however the extant planning permission for conversion of the barn to be replaced (18/01094/Q56) is a material consideration.

It is clearly in the applicant (or any other landowner's) interest to implement the permitted scheme if planning permission for an alternative is not forthcoming. The permitted conversions would be financially advantageous to the owners offering a good-sized home within buildings which presently require upkeep and offer no financial return.

The weight to be attached to a fallback option has been well-defined by court cases including, inter alia, *Spackman v SOS & Thamesdown BC*, *Snowden v SOS & City of Bradford MC*, *Gwinnell v SOS & LB Islington*, *Simpson v SOS* and *Medway Council and R on the application of Zurich Assurance (t/a Threadneedle Property Investments v North Lincolnshire Council*.

In short, these cases identify that the weight to be attached to a fallback option increases commensurately with the likelihood of that scheme being implemented if an alternative option, requiring planning permission, is refused. In addition, the caselaw also identifies that any alternative application scheme should result in no greater harm, from a planning perspective, than would result from the implementation of the fallback alternative.

The *Zurich* case (and the judgement of Hickinbottom, J) makes clear that the prospect of an alternative (fallback) development taking place needs only to more than 'merely theoretical' to be given weight as a material consideration, as demonstrated in Justice Hickinbottom's analysis below:

*'The prospect of the fallback position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fallback happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the proposition a material consideration...'*

Having regard to relevant caselaw the extant approval for conversion of the barns, including the structure now to be replaced, constitutes a material consideration. In particular, it establishes the principle of the creation of a dwelling on the site of equivalent size and visual presence to that now proposed.

While the applicants firmly believe the proposed development is aligned with saved policy H19, were this not the case the NPPF still supports the grant of planning permission in the presence of the 'fallback' of the approved dwelling on the site. Paragraph 12 of the NPPF states that even where proposals do not comply with the development plan permission can still be granted where material considerations justify.

Extant planning permission 18/01094/Q56 allows the creation of a home upon the site. The impacts arising from a household on the site, including traffic, will already arise. The relevant question for this application is whether the scheme proposed would give rise to greater harm than would already occur and if any benefits can be offered compared with the permitted development.

The NPPF requires that planners at all levels seek to achieve high quality design with paragraph 38 requiring planning decisions to be taken in a positive and creative way.

Even if the proposed development were held not to align with Local Plan policy in the presence of fallback scheme 18/10194/Q56 relevant caselaw set out that planning permission should be granted so long as the proposal does not result in harm which could not already occur. Furthermore, the NPPF actively encourages a positive approach to where possible improve upon the scheme already permitted.

As set out below the proposed scheme is considered to represent a preferable scheme to 18/01094/Q56 in planning terms, it is therefore supported in principle.

#### *Impact of development*

The proposed development would not give rise to any harmful impacts to local amenity when considered against the scheme already permitted under 18/01094/Q56. It offers the same benefit, namely a new home in an area of substantial housing need and restoration of a traditional building, without any additional harm.

The proposed home provides the same amount of accommodation (i.e. a two-bedroom house) and will not therefore give rise to any greater level of traffic or any other activity.

Considered in the context of the permitted scheme the proposed development cannot be objectionable in visual terms. It retains the attractive traditional brick barn in line with the approved development to the benefit of the historic local landscape. The second portal frame barn is to be demolished with a replacement structure in its place. This maintains the simple character of the agricultural structure and the arrangement of buildings around a farmyard in order that the character of the site is maintained and its working origins remain clearly legible.

While the scheme now proposed would not result in any harm compared with the permitted development, it can offer benefits over-and-above it.

The structure proposed to replace the southern barn will use of higher quality vernacular building materials (ironstone and timber) offering an improved appearance and greater sense of place. The proposed development is considered to represent an improvement over the permitted fallback scheme in terms of its visual impact on the character of the area and appearance of the landscape.

It is relevant that the Council have greater discretion over matters such as landscaping under this planning application than they did in determining prior approval 18/01094/Q56 where considerations were strictly limited. The additional powers of the Council to consider all material considerations in this application means a superior development should now be secured.

A particular benefit of the current proposal is that it would provide better living conditions for its occupants than the approved 'fallback' dwelling.

While the home permitted under 18/01094/Q56 meets basic living standards it can be improved upon. The accommodation of the permitted dwelling is compromised by it being spread across two detached buildings, meaning it would be necessary for residents to step outside to move between certain rooms 'in' the house.

The scheme now proposed removes this compromise by providing the whole home within a single building (with the external appearance of two structures) removing need for occupants to leave the house to move between rooms. This clearly offers a better standard of living for occupants. The reduction in need to open external doors can also reduce loss of heat from the building during cold periods to the benefit of its environmental performance.

The proposal maintains the same generous private garden as the approved scheme, it therefore offers the same high quality external environment for residents.

While in the context of the permitted fallback scheme the proposed development the development is not objectionable, for the avoidance of doubt we also confirm the proposed development should not result in harm when considered in its own right.

The development would not be intrusive in the landscape, indeed it can be beneficial in safeguarding a historic farm building avoiding its disuse, dereliction, and loss as part of the working rural landscape.

The site does not have any close residential neighbours the proposal will not therefore be harmful to any property's residential amenity.

The proposal site is set alongside barns intended to continue in their current agricultural use for storage of hay and straw. These activities do not give rise to notable noise or odour and so are not considered incompatible with residential amenity. The compatibility of a dwelling with the neighbouring agricultural uses was considered



as one of the limited considerations of 18/01094/Q56. This concluded the relationship between home and agriculture was not unusual for a barn conversion, the site was considered to offer proper residential amenity without need for mitigation.

The site benefits from an existing access to the highway with good vision, the proposed development should not result in harm to the local highway. The proposed home is of good size with adequate space on the plot for storage of bicycles allowing residents to access nearby settlements by sustainable means.

The site is not in an area identified as being at risk of flooding, there are therefore no concerns with regard to flood risk. The application site is a farm yard set to the edge of agricultural fields.

Regulations tightly control the storage of chemicals and fuels in agriculture to prevent contamination of land and water supplies, there is no reason to suspect contamination of the site. The proposed development should not place residents at risk from land contamination.

There are no protected trees in the vicinity of the site. The proposed development is contained to the area of existing buildings and should not result in the loss of any important specimens.

The applicants are not aware of the presence of any protected species on site. Notwithstanding, protections afforded under national and European legislation ensure development could not proceed without appropriate measures in place should any be found. Development should not result in any harmful impacts with regard to ecology.

### **Conclusion**

This application is submitted as an alternative development to the extant planning permission 18/01094/Q56 which allows the creation of a new dwelling upon the site. The proposal involves the construction of a single home designed to respond to its surroundings, and in particular, have an improved landscape impact and offer a better living environment for its occupants than the home already permitted.

The proposed barn conversion, with elements of building replacement, is considered to be supported in principle by saved policy H19 of the Cherwell Local Plan 1996. The development would offer a high-quality home in an area of need to the benefit of social, environmental, and social sustainability without harm to amenity.

Furthermore, the extant planning permission 18/01094/Q56 is a material consideration of substantial weight in this application. Under the approval a two-bedroom house could be created on the site, and indeed would if the current application is not approved. The existing 'fallback' scheme means the impacts associated with a new house, including the traffic of a household, would already occur.

The development now proposed would not give rise to any harmful impacts which would not already occur from the approved development, it can though offer improvements upon it with regard to appearance and living standards. We cannot identify any harm from the development which would merit a refusal of planning permission when assessed against the permitted fallback scheme, there would however clearly be considerable benefits.

Having regard to the NPPF exhortation to achieve sustainable development this proposal would meet the required test in providing tangible benefits when compared to

the fallback scheme, without material planning harm. In view of the clear benefits, and in the absence of planning harm the presumption in favour of sustainable development sets out that planning permission should be granted even if the development were considered not to strictly adhere to Local Plan policy. Such an approach would be in line with paragraph 12 of the NPPF and is actively encouraged by the exhortation for positive and creative decision making under paragraph 38.

We look forward to receiving the application acknowledgement shortly and trust that the allocated case officer will be in contact in due course should there be any queries regarding the proposal.

Yours faithfully,



David Burson LLB MSc. MRTPI MRAU  
Associate  
Email: david.burson@jppc.co.uk  
Direct dial: 01865 322358