

**Case Officer:** Gemma Magnuson

**Recommendation:** Approve

**Applicant:** Mr R Bratt

**Proposal:** Erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use

**Expiry Date:** 3 September 2021

**Extension of Time:**

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The site is an area of land adjacent a former steel-framed agricultural barn, currently being converted to residential use, set in open countryside, south of the village of Bodicote. The site is accessed via an existing gated access off Church Street. The existing building has been granted permission for conversion to a residential dwelling with associated curtilage. The surrounding land is in agricultural use. Land levels rise to the north with residential properties on the edge of the village of Bodicote sitting at an elevated position above the site. The site is bounded by mature hedgerows and trees to the west and north, with post and rail/wire fencing and open countryside to the other boundaries.
- 1.2. In terms of site constraints, the site is not within a conservation area and the building is not a listed building. Grade II listed Bodicote Mill lies some 190m to the west of the site. The site is partially within Flood Zone 2 and ponds have been identified in the vicinity.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The proposed development would involve the erection of a detached outbuilding to contain a three bay garage with tool and tractor shed. The associated change of use of agricultural land to residential use to accommodate the outbuilding and hard-surfaced access and manoeuvring area is also applied for. The garage would be constructed using Thermo-Ash Wood Cladding, and it would be positioned to the north-west of the dwelling.
- 2.2. The site has been the subject of lengthy planning history relating to both the outbuilding that is the subject of this current application, and the conversion of an agricultural barn to a dwelling, with which the outbuilding would be associated.
- 2.3. In summary, planning permission was refused during June 2020 for the outbuilding in the position currently applied for. The applicant appealed against the decision, although in the meantime, they gained planning permission for an outbuilding in a different position within the site. Planning permission was granted for the outbuilding in this alternative location in October 2020, prior to the appeal decision being issued.
- 2.4. On 21 May 2021, the appeal decision was issued, with the Inspector making clear that they would have been minded to allow the Appeal, had it not been for the intervening approved application for an outbuilding in the alternative position. If allowed, the applicant would be able to construct both outbuildings, and it is this that the Inspector held would result in harm.

2.5. The current application therefore seeks planning permission for the outbuilding applied for under reference 20/00841/F, with the addition of solar PV panels on the south facing roof slope. As part of the application, a Legal Agreement has been completed where the applicant has agreed not to implement the previous permission.

### 3. RELEVANT PLANNING HISTORY

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

**Application: 16/01587/F** Permitted 21 November 2016

Conversion of agricultural building to dwelling following Certificate of Lawful Development 15/01780/CLUP

**Application: 15/01780/CLUP** Permitted 19 January 2015

Certificate of Lawfulness of Proposed Use for the conversion of agricultural barn to dwelling

**Application: 18/00121/F** Permitted 13 March 2018

Minor material amendment to 16/01587/F - to increase structural steel columns in section, alterations to the window fenestration and increase in ridge height of 450mm and eaves height of 450mm

**Application: 18/00114/NMA** Permitted 5 October 2018

Alterations to approved windows and openings (proposed as non-material amendments to 18/00121/F)

**Application: 19/00139/DISC** Permitted 12 June 2019

Discharge of Condition 3 (drainage) of 18/00121/F

**Application: 19/01056/F** Refused 4 October 2019

Erection of garage adjacent to approved dwelling and change of use of land to residential

**Application: 20/00147/PREAPP** Response Sent 26 February 2020

Proposed garage and Change of Use of land

**Application: 20/00841/F** Appeal Dismissed 6 June 2020  
(Against Refusal)

Erection of garage adjacent to approved dwelling and change of use of agricultural land to residential use

**Application: 20/01767/F** Permitted 5 October 2020

Erection of 5 bay garage adjacent to approved dwelling and change of use of agricultural land to residential use

- 3.2. Application ref: 20/00841/F was dismissed at Appeal (see: APP/C3105/W/20/3263029), although the Inspector was minded to allow the appeal had it not been for a subsequent approval of planning permission under ref: 20/01767/F for an outbuilding in a different location within the site. Had the appeal been allowed, both outbuildings could be constructed. The Inspector concluded as follows:
- 3.3. *In isolation therefore, I find that the appeal scheme would not be harmful. However, I am particularly conscious that since the time of the refusal of the planning application, a further scheme has been submitted and has been granted planning permission by the Council for the erection of the same garage in a different position, i.e. further to the south in front of the dwelling itself. This is a matter to which I must have regard. The two garages would occupy discrete positions within the site and thus could both be constructed independently. This would lead to an increased quantum of built development at the site and result in visual clutter, harming the rural character of the location. I am conscious that the appellant highlights a willingness for the subsequently granted planning permission to be revoked. However, a planning permission can only be revoked following a specific process, which I am not aware has been undertaken. Furthermore, I am not satisfied that a planning condition could be used to prevent implementation of the already approved scheme.*
- 3.4. *In this case therefore, given that the appeal scheme could lead to the potential for the harmful proliferation of buildings at the site, I must find that it would result in a detrimental effect on the character and appearance of the area. Thus, it conflicts with saved policy C28 of the Cherwell Local Plan (adopted November 1996) and policies ESD13 and ESD15 of the Cherwell Local Plan – Part 1 (adopted 20 July 2015). Together, and amongst other things, these policies seek to ensure development is sympathetic to the rural context, that development respects landscape character and that proposals reinforce local distinctiveness.*

#### **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 **17 September 2021** 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 **17 September 2021**. 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. Bodicote Parish Council – objects to the application, on the following grounds:
- 6.3. *“On 5th October 2020 planning application 20/01767/F was permitted for a similar application on this land. A further application was made by the applicant for a similar*

*development to the one submitted but was refused by the District Council. This went to appeal and the Inspector determined QUOTE In isolation therefore, I find that the appeal scheme would not be harmful. However, I am particularly conscious that since the time of the refusal of the planning application, a further scheme has been submitted and has been granted planning permission by the Council for the erection of the same garage in a different position, i.e. further to the south in front of the dwelling itself. This is a matter to which I must have regard. The two garages would occupy discrete positions within the site and thus could both be constructed independently. This would lead to an increased quantum of built development at the site and result in visual clutter, harming the rural character of the location I am conscious that the appellant highlights a willingness for the subsequently granted planning permission to be revoked. However, a planning permission can only be revoked following a specific process, which I am not aware has been undertaken. Furthermore, I am not satisfied that a planning condition could be used to prevent implementation of the already approved scheme. UNQUOTE This Parish Council agrees with the view of the Inspector and requests that the District Council refuses this application. We also believe that the location of the approved scheme has less impact on the rural character of the location.”*

### OTHER CONSULTEES

- 6.4. OCC Highway Authority – no objection.
- 6.5. CDC Landscape – no comments received.
- 6.6. CDC Ecology – no comments received.
- 6.7. CDC Land Drainage – no comment to make.

## **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)

- PSD 1 – Presumption in Favour of Sustainable Development
- SLE 4 – Improved Transport Connections
- ESD 1 – Mitigating and Adapting to Climate Change
- ESD 4 – Decentralised Energy Systems
- ESD 5 – Renewable Energy
- ESD 6 – Sustainable Flood Risk Management
- ESD 7 – Sustainable Drainage Systems (SuDS)
- ESD 10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13 – Local Landscape Protection and Enhancement
- ESD 15 - 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 control

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)

## **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
- Highway Safety
- Flood Risk
- Ecology

#### Principle of development

8.2. The Case Officer for application ref: 20/00841/F, that sought permission for an outbuilding in the same position as that now sought, commented that, whilst there was potential for an outbuilding to be developed on the site to support the residential use, the proposals, by virtue of their siting and scale (outbuilding) and extent (land changing use from agricultural to residential) represented an inappropriate form of development that would result in demonstrable visual harm through unjustified visual intrusion into the valued rural landscape, and are therefore unacceptable in principle.

8.3. However, the Inspector disagreed in their appeal decision, commenting that the outbuilding would share a close physical and visual relationship with the dwelling rather than appearing divorced, and would be subservient in appearance. Similarly, the extent of hardstanding was not considered excessive, in light of the scale of the permitted property.

8.4. The Inspector's comments in this recent appeal decision constitute a material consideration in the assessment of the current application. Such that, while officers tend to agree with the comments of Bodicote Parish Council, it is the case that had the previous application for an alternative scheme not been approved, we would need to heed the Inspector's findings and approve the current application.

8.5. The applicant has now completed a legal agreement with the Council, in which he has agreed not to implement the previous permission. This having been effected, the principle of the proposed development must now be considered acceptable.

8.6. The current scheme does, however, now include solar PV panels upon the south facing roof slope of the outbuilding where they were not previously proposed. The planning system is generally supportive of measures that assist with the transition to a low carbon future in a changing climate. Planning policies are required to assist with the increase of the use and supply of renewable and low carbon energy and heat, and Government guidance contained within the NPPF states that when

determining applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for the renewable or low carbon energy, and recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. Further, applications should be approved if its impacts are, or can be made, acceptable.

- 8.7. Policies ESD1, ESD4 and ESD5 all echo Government support for renewable energy schemes in the District, with Policy ESD5 stating that planning applications involving renewable energy development will be encouraged, provided that there is no unacceptable adverse impact.
- 8.8. It is for the above reasons that I consider the principle of the proposed development, inclusive of solar PV panels, to be acceptable.

#### Design, and impact on the character of the area

- 8.9. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.10. The Government also advises in the NPPF of the need for planning decisions to look ensure that new development contributes and enhances the natural and local environment by, in part, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
- 8.11. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, positively contributing to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features. Further, Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 8.12. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development.
- 8.13. The Case Officer for application ref: 20/00841/F, that sought permission for an outbuilding largely the same as that now proposed, explained that they considered the outbuilding to be substantially larger than what might be considered a typical domestic garage, being poorly related to the dwelling and appearing more commercial than a residential development. It was considered that the outbuilding would have an urbanising effect on the local area, and would not respect the agricultural character of the site, with the Case Officer concluding that the proposals were unsympathetic to the rural context of the site and an inappropriate form of development that would cause undue visual intrusion into the valued rural landscape and open countryside, contrary to the provisions and aims of saved Policy C28 of the CLP 1996, Policies ESD 13 and ESD 15 of the CLP 2015 and Government guidance within the NPPF in respect of conserving and enhancing the natural environment.

- 8.14. The Inspector disagreed with this conclusion in their appeal decision, explaining that the visual presence would be mitigated by the close relationship to the dwelling, the use of matching materials providing visual cohesion to the appearance of the two dwellings, as well as most significantly by the rising ground levels to the north of the site, against which the majority of views of the development would be seen.
- 8.15. The Inspector did not consider that the appeal scheme would be harmful although, if the appeal were to be allowed, this would open up the possibility of two approved outbuildings being constructed – the appeal scheme and that approved under application ref: 20/01767/F – and it was this that the Inspector considered harmful.
- 8.16. As noted above, during the course of the current application a legal agreement has been completed whereby the applicant has agreed not to implement the permission dated 05 October 2020 application ref: 20/01767/F.
- 8.17. It is for this reason that I consider the concern of the Inspector to be overcome, and despite it running contrary to the recommendation of the previous Case Officer with regard to a similar proposal on this site, in light of the comments of the Inspector I consider that the outbuilding would not result in visual harm.
- 8.18. Solar PV panels are now proposed upon the southern facing roof slope. I acknowledge that these are not the most sensitive addition to the rural landscape, particularly given their tendency to shine in sunlight, although renewable energy projects are generally encouraged at both local and national levels and their benefits in terms of the generation of renewable energy must be weighed against their visual impact. The increased scope of permitted development rights in recent times with regard to solar panels reflects this support. Given that the panels would be installed upon a contemporary building that is sufficiently separated from heritage assets to avoid harm to their significance, I do not consider that a refusal on the grounds of visual impact could be justified.
- 8.19. I therefore consider the proposed development to accord with the above-mentioned Policies in terms of visual impact.

#### Residential amenity

- 8.20. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD 15 of the CLP 2015 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the CLP 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.
- 8.21. The impact of the development upon neighbouring properties has not previously been of concern to the Council given the isolated location in the open countryside. It is for similar reasons that I do not consider that the solar panels would result in harm. I therefore consider the proposal to accord with the above Policies in terms of residential amenity.

#### Highway safety

- 8.22. Government guidance contained within the NPPF seeks to achieve safe and suitable access to sites for all users, and requires development to be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 8.23. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should be designed to deliver high quality safe places to live and work in. Policy SLE 4 of the CLP 2015 requires all development, where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement is also given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.
- 8.24. The proposed outbuilding would serve a single family dwelling and is not anticipated to increase the number of vehicle movements to and from the site. I note that the Local Highway Authority have raised no objection to the proposal I have no reason to disagree with this. I therefore consider the proposal to accord with the above Policies in terms of highway impact.

#### Flood risk

- 8.25. Government guidance contained within the NPPF advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 8.26. Policy ESD 6 of the CLP 2015 echoes Government guidance, requiring the submission of a Flood Risk Assessment (FRA) and demonstration that developments will be safe and remain operational (where necessary), and that surface water will be managed effectively on site and that the development will not increase the flood risk elsewhere.
- 8.27. The same Flood Risk Assessment and Drainage Strategy has been submitted for the current application as for the previous application for the outbuilding on this site ref: 20/00841/F. This was accepted by the previous Case Officer and I have no reason to deviate from that officer's conclusion on this matter. I also note that the Land Drainage Officer has made no comment with regard to the scheme. It is for the above reasons that I consider the development would not increase the risk of flooding elsewhere, in accordance with the above Policies.

#### Ecology

- 8.28. Government guidance contained within the NPPF requires the protection and enhancement of biodiversity. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 8.29. Policy ESD10 echoes Government guidance, requiring relevant habitat and species surveys to accompany applications which may affect a site, habitat or species of known or potential ecological value, seeking net gains in biodiversity, the protection of existing trees and the protection, management, enhancement and extension of existing resources along with the creation of new ones.
- 8.30. The same Ecological Mitigation and Enhancement Scheme has been submitted with the current application as it was for the previous application for the outbuilding on this site ref: 20/00841/F. The Ecology Officer had previously considered this to be



acceptable, although has not provided comments on the current application. The previous Case Officer considered that conditions could be used to avoid detriment to ecology and whilst also providing a net gain in biodiversity, more specifically, through requiring the developer to accord with the Ecological Mitigation and Enhancement Scheme submitted with the application.

8.31. I have no reason to disagree with this previous assessment, and consider that the development accords with the above Policies in terms of ecological impact.

## **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 appeal decision relating to the previous application for an outbuilding upon this site and change of use ref: 20/00841/F supported the principle of the currently proposed development and concluded that harm would not result in terms of visual impact provided another approved development (for an alternative) scheme was not implemented. The applicant has now completed a legal agreement with the Council, in which he has agreed not to implement the previous permission.

9.3. The addition of solar panels to the southern facing roof slope does not alter this conclusion, although would result in environmental benefits in terms of the generation of renewable energy that weigh in favour of the scheme. (Very minor economic benefits would also be gained through the initial construction of the outbuilding and the surfacing of the land, albeit this benefit would not outweigh any harm that may be caused.)

9.4. The proposed development can be undertaken without resulting in harm to residential amenity, highway safety, flooding or biodiversity, and is therefore considered to constitute sustainable development, in accordance with local and national planning policies.

## **10. RECOMMENDATION**

That permission is granted, subject to the following conditions:

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: Ecological Mitigation and Enhancement Scheme ref: 3508-CWS-01 Rev. 02 dated 09 December 2019, Flood Risk Assessment ref: BBG-SOLID-XX-XX-RP-C-0002 dated 05 August 2019, Drainage Strategy ref: BBG-SOLID-XX-XX-RP-C-0001 dated 05 August 2019, Drawing No's: 4728/map E, 4728/24, 4728/25, 4728/26, 4728.27

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. The materials to be used for the walls and roof of the outbuilding hereby approved shall match in terms of colour, type and texture those used on the existing dwelling.

Reason – To safeguard the character and appearance 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.

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 09 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.

5. The solar photovoltaic panels hereby approved shall be removed from the development within 6 months of the cessation of their use.

Reason – In the interests of the visual amenities 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.

6. The development hereby approved shall not be used other than as ancillary accommodation to the existing dwelling house and as such shall not be sold, leased or used as an independent dwelling unit or for any non-ancillary commercial purpose.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site and in the interests of sustainable development and in order to safeguard the amenities of the area in accordance 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.

Case Officer: Gemma Magnuson

DATE: 31 March 2022

Checked By: Nathanael Stock

DATE: 06.04.2022

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