

JPPC ref: 9006 NW-JK Home Farm  
Portal reference: PP-12912213

Planning Registration  
Cherwell District Council

SUBMITTED VIA PLANNING PORTAL

21<sup>st</sup> March 2024

Dear Sir / Madam

**Planning application for change of use of land to residential garden, erection of green house, fencing, paving and associated works (retrospective)**

**At: Home Farm, Sibford Ferris, Banbury, OX15 5RF**

We are instructed as agents for Mr and Mrs Crossley to submit a planning application for the change of use of the area of land to the north of Home Farm to residential garden, the erection of a greenhouse, a small area of replacement fencing and the provision of an area of paving slabs adjacent to the greenhouse. The application is retrospective and it is understood some elements of the proposal have been in existence for in excess of 10 years.

The application is made without prejudice as we consider the alleged breach of planning control is questionable in a number of respects.

Home Farm is located in the village of Sibford Ferris and consists of a two storey dwelling to the south of the site. A number of outbuildings exist around the main dwelling some of which have been recently subject to extension and conversion. The land which is subject to the current application is located to the north of these.

**Planning constraints**

The site is located in the Sibford Ferris Conservation Area. A tree which is subject to a Tree Preservation Order exists on the western boundary of the site. The site is not within the setting of any listed buildings and is not in an area of flood risk according to the Environment Agency's mapping.

**Planning history**

The most recent planning history from the Councils website is as follows:

In 1997 (97/01843/F) planning permission was sort for the change of use of land from pasture to garden, the creation of a track and the formation of a pond. From the records on the Councils website this appeared to relate to the application site and a much larger parcel of land including the wider

field parcel to the north of the current application site. It was refused planning permission as it was considered the hard urban appearance of the track, to the topography and domestic trappings would be visually intrusive and result in coalescence between Sibford Ferris and Sibford Gower.

In 1998 (98/01693/F) planning permission was granted for the change of use of a small part of the field from agriculture to orchard/vegetable garden. This related to the current application site. The decision included the following conditions of note:

*2. The application site shall be used only for the purposes described in the application and for no other purposes whatsoever and upon cessation of its use, it shall be returned to agricultural uses as defined in Section 336(1) of the Town and Country Planning Act 1990*

*3. Notwithstanding the provisions of Class E of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 no buildings, fences, or other means of enclosure, swimming pools or other structures shall be constructed within the application site outlined in red hereby approved without the prior formal consent of the Local Planning Authority.*

In 2001 planning consent was granted for the erection of a post and 3 no. rail fence with stockproof wire mesh (retrospective) (01/00574/F) around part of the site.

In 2021 planning permission was granted for the erection of a rear extension to the existing dwelling and conversion and extension of the existing outbuilding to habitable accommodation (21/01712/F). This was subsequently amended under 22/01050/F and has been implemented.

## **Proposal**

Without prejudice the current application seeks permission to use the area of land approved under 98/01693/F as general domestic residential garden to serve the property. The house was purchased by our clients in 2021 however it is understood it has been used in this manner for a number of years prior to the current application with regular maintenance.

The application also seeks retrospective consent for the retention of a small greenhouse situated in the north eastern corner of the site. It is understood from the previous owner that this has been in existence for in excess of 10 years without complaint to the Council.

A small element of the fencing on the northern end of the eastern boundary has also been replaced with some new fencing. This replaced a former rotten fence panel in this location as shown below:



9th March 2021



12th February 2024

A wider area of paving has also been placed around the existing greenhouse as shown on the site plans and above photographs. This was permitted development under Class F of the General Permitted Development Order 2015 (as amended).

### **Planning policy**

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The most relevant policies in this case are:

#### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C15 – Coalescence
- C28 – Layout, design and external appearance of new development

At a national level the National Planning Policy Framework (2023) is also a material consideration.

### **Planning assessment**

#### *Principle*

In principle there are no local planning policies which restrict the change of use of land to domestic residential garden subject to compliance with other policies in the Development Plan which are outlined below.

#### *Design and impact on the character and appearance of the area, including heritage assets*

The site lies on the northern edge of Sibford Ferris. The main dwelling faces south onto Woodway Road and forms part of a grouping of dwellings facing onto the street with

gardens to the north. Further to the north exists undeveloped fields which fall away into the valley that exists between the villages of Sibford Ferris and Sibford Gower.

The NPPF advises that development should be sympathetic to local character and maintain a strong sense of place. Policy ESD 13 of the CLP 2015 requires development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It goes onto note that development should not cause undue visual intrusion into the open countryside, should be consistent with local character and not harm the setting of settlements or buildings. Policy ESD 15 of the CLP 2015 goes onto state development should complement and enhance the character of its context. It goes onto note that heritage assets should be conserved in a manner appropriate to their significance.

Policy C15 of the CLP 1996 state the Council will prevent the coalescence of settlements by resisting development in areas of open land which are important in distinguishing them.

The site also lies within Sibford Ferris Conservation Area. The site itself is not considered to make a significant contribution to the significance of the Conservation Area however the undeveloped valley fields to the north are important to the character and appearance of the Conservation Area and separation from Sibford Gower to the north.

It is important to note that since the application was previously approved in 1998 national planning policy has significantly changed. With the introduction of the NPPF in 2012 (and subsequently amended) there is no longer a blanket restriction to development in the countryside and a more nuanced approach is required which requires looking at local character and any harm arising from a proposal.

The parcel of land which is subject to the current application for change of use has a clear strong visual and spatial relationship with the existing residential curtilages with the properties immediately to the east of the site in Home Farm Court. The northern boundary of the garden area extends no further north than the boundaries of the gardens of these properties and is seen as part of this pocket of development. The rear boundary would be continuous and consistent with the extent of the neighbours gardens to the east which define the boundary with the field to the north. Given these factors in our opinion the proposal would not lead to any intrusion into the open countryside and would appear as a natural boundary to the garden given the surrounding pattern of plots.

In addition to the above the westerly extent of the parcel of land which is subject to this change of use aligns with the historic field boundary which runs to the north of the site into the valley. The proposal therefore also relates strongly to the field pattern in the area and does not appear out of context or incongruous.

The use of this parcel of land for domestic purposes would have no greater impact on the character and appearance of the area than the existing permitted use which the Council considers is limited to orchard/vegetable garden use. These uses may include the provision of fruit cages on the land and also the maintenance of the land through mowing etc.

We therefore consider the use of the land for domestic purposes relates strongly to the existing pattern of development in this area, including the neighbouring gardens and field boundaries. It would not result in any visual intrusion into the open countryside and would complement the surrounding character of the area. It would not impact on the views around the village into the valley given its close relationship with the neighbouring

plots. It would therefore be wholly consistent with Policy ESD13 and ESD15 of the CLP 2015.

For the above reasons the proposal would also not result in any sense of coalescence between Sibford Ferris and Sibford Gower as the proposal would be sympathetic to the field pattern of the valley and the existing domestic boundaries in the immediate vicinity. The large fields that separate the settlements would be maintained and the proposal would be in no way harmful or intrude on the sense of separation between these settlements. There would be no conflict with Policy C15 in this respect.

The greenhouse is a very small structure which is in keeping with the domestic context. It is located adjacent to the boundary with the neighbouring property near some existing trees which provide a backdrop to this structure. It is understood that the greenhouse has been in situ for more than 10 years so is likely to be immune from enforcement action. Likewise the small length of approximately 1.5 metre high replacement fence panels on the eastern boundary replace similar fence panels and are not prominent in the surroundings.

The area of new patio is considered to be permitted development under Class F and can be constructed without permission. Notwithstanding this it is of a relatively limited size and is not prominent from outside of the site and so would have very negligible impact on the surroundings.

Overall we consider that the proposal would be sympathetic to the character and appearance of the area and the setting of the settlement. The area of land has a much stronger visual and spatial relationship to the surrounding gardens rather than the open fields to the north. The proposal would not lead to any encroachment into the open countryside and would relate well to the surrounding gardens and field boundaries and would be a logical rounding off of the garden. It would therefore comply with the relevant national and local planning policies.

#### *Residential amenity*

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.

The proposed use of the land as residential garden would be wholly consistent with the neighbouring land uses including agricultural and residential gardens. There would not be any unacceptable loss of amenity to the neighbouring land and it is common to have gardens side by side in such an environment.

#### *Other matters*

There are no other significant planning matters arising from the development.

#### **Conclusion**

We consider that the proposed use of this area of land and the associated development is sensitive and consistent with the local landscape and would not cause undue visual intrusion into the open countryside or harm through coalescence. It would therefore be consistent with local and national planning policy and would accord with the Development Plan when read as a whole. There are no material considerations that indicate planning permission should be refused. We therefore request that planning permission is granted.

We trust you have everything you require to make a positive determination of the application however if you have any questions or queries please do not hesitate to contact Neil Warner of myself.

Yours faithfully

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