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# Appeal Decision

Site visit made on 3 July 2017

**by K Ford BSocSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31<sup>st</sup> October 2017**

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**Appeal Ref: APP/C3105/W/17/3173098**

**Muddle Barn Farm, Colony Road, Sibford Gower, Banbury OX15 5RY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Gregory Besterman against the decision of Cherwell District Council.
  - The application Ref 16/01563/F, dated 3 August 2016, was refused by notice dated 1 November 2016.
  - The development proposed is 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.
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## Preliminary Matter

1. The design of the proposal was amended during the course of the Council determining the application. For the avoidance of doubt, the appeal will be determined in with reference to plans 1759.100G, 1759.110B, 1759.111B, 1759.118B, 1759.122A, 1759.127A, 1759.128A, 1353.01C and the site location plan.

## Decision

2. The appeal is allowed. Planning permission is granted for the 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 at Muddle Barn Farm, Colony Road, Sibford Gower, Banbury OX15 5RY in accordance with the terms of the application, ref 16/01563/F, dated 3 August 2016, subject to the conditions in the attached schedule.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

4. Muddle Barn Farm consists of a single detached chalet type farmhouse, 4 large agricultural buildings and other smaller structures, a horse walking area, manege and hardstanding. The property is accessed via a private road off Colony Road which is shared with the neighbouring property, New Barn Farm.
5. The proposal is to demolish the existing dwelling and erect a considerably larger Georgian/ Regency styled three storey 7 bedroom house, the third storey being in the roof. The dwelling would also include a single storey

element on the side of the property housing a kitchen/ breakfast room, pantry, toilet, utility and plant room. The proposal involves alterations to ground levels to form a landscaped terrace to the rear of the dwelling, the demolition of all but 3 of the existing agricultural buildings, structural planting, hardstanding to form a new access drive and parking courtyard and a retaining wall which would enclose a new stable yard. The appeal site is located in open countryside for planning policy purposes.

6. There is some dispute between the parties about whether the proposal constitutes a replacement dwelling or a new dwelling in the countryside. Irrespective of this the proposal would not be connected to an agricultural business and would be located in a different part of the site to the existing dwelling, although partly within its curtilage. It would also be substantially larger in size, even when comparing the existing dwelling with Permitted Development (PD) rights applied and the proposed dwelling with PD rights taken away. There is therefore some conflict with both policy H17 of the Cherwell Local Plan 1996 (Local Plan) which supports replacement dwellings where the existing property is unfit and the replacement is of a similar size and within the same curtilage and policy H18 of the Local Plan which supports new dwellings which are required for agricultural use.
7. The proposal would however be a notable improvement in terms of architectural design compared to the modern brick built farmhouse currently on the site. Whilst the site is on high ground, the dwelling would be located on a lower part of the site and orientated to follow the existing field pattern and run parallel with New Barn Farm. This along with design features and the use of materials such as Horton ironstone, timber windows and a slate roof mean that the proposal would be sensitive to the characteristics of the local area and would enhance the characteristics of the immediate setting. Consequently, whilst there is some conflict with policies H17 and H18 of the Local Plan overall I find that the proposed dwelling would improve the character and appearance of the surrounding area and this benefit is sufficient to outweigh the limited policy conflict.
8. The area in which the site is located is designated good quality landscape within the Cotswolds Character Area. The existing development does not make a positive contribution to the character and appearance of the area and so its removal would not be detrimental.
9. The new development would be more noticeable in terms of its scale and appearance, particularly from certain viewpoints and it would be different in character to its immediate neighbour New Barn Farm, although the use of materials would be the same as the outbuildings used at this property. Whilst the proposal may change the scale of the property, the Landscape and Visual Impact Assessment (LVIA) identifies that such a property would not be out of character for the area. Because of the design and materials of the proposal the LVIA concludes that subject to mitigation with landscaping the development would have a moderate to slight impact on the character of the landscape. In terms of the visual effect assessment, the impact would be slight to negligible. In the long term there would be little effect on landscape character or visual amenity. The development would not detract from or block any noteworthy views and would make a positive contribution in terms of removing uncharacteristic features to the area such as Lawson Cypress hedges and

restoring hedged field boundaries, hedgerow tree planting and the use of vernacular building materials. I agree with these findings.

10. Whilst there would be some impact, the development would cause minimal harm to the character of the countryside or the character and visual amenity of the local landscape and so would not conflict with policy C30 of the Local Plan which requires new development to be compatible with existing dwellings in the vicinity and policy ESD13 of the Cherwell Local Plan 2011-2031 Part 1 which expects development to respect and enhance local landscape character.

### **Other Matters**

11. The proposal is located some 300 metres from the boundary of the Cotswolds Area of Outstanding Natural Beauty (AONB). Although the Council did not refer to this in their reasons for refusal they have however included it in their statement of case and the appellant has responded. Based on the information before me and for the reasons outlined above there is nothing to indicate that the development would not conserve and enhance the special landscape character of the AONB.
12. Bats were found to be present on the site following a survey in July 2016 and I note that the Council is satisfied that the proposal would have no adverse effects on protected species or other important wildlife. It can be conditioned to ensure that the development does not cause harm to bats or any other protected species.
13. I note the concern about a potential future application for an alternative access to the site. I am however only able to assess the proposal that is before me.

### **Conditions**

14. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
15. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans for the avoidance of doubt and in the interests of proper planning. Conditions to secure appropriate external features, finishing materials, ground levels and a scheme of hard and soft landscaping prior to commencement are necessary in the interests of visual amenity and the character and appearance of the area. Conditions to secure plant species protection, retention and maintenance, some of which are required prior to commencement, are necessary in the interests of visual amenity and to protect biodiversity. Conditions requiring surveys, works and restrictions on the timings of development prior to commencement are necessary to protect species and their habitats. A condition on access, to be implemented prior to commencement is necessary in the interests of highway safety. A condition removing permitted development rights is necessary because of the size of the proposed development to protect the character and appearance of the area and a condition requiring the demolition of the existing dwelling and associated structures on the site is necessary to prevent a net increase in dwellings in the countryside. While I am aware that planning practice guidance advises that permitted development rights should only be removed in exceptional

circumstances, I am satisfied that they exist here for the reasons set out above.

16. The Council has suggested a condition requiring the submission of a plan identifying the residential curtilage. I do not consider this necessary as plan 1353.O1C identifies the extent of the domestic garden. The Council also proposed a condition requiring amended details of the dormer windows. The condition as drafted implied the dormers shown on drawing 1759.118B were unsatisfactory which I do not consider to be the case. I have therefore added a requirement to condition 3 that full details of the dormers be submitted to the Council.

### **Conclusion**

17. For the reasons given above and having had regard to all other matters raised the appeal should succeed and planning permission should be granted.

*K Ford*

INSPECTOR

### **CONDITON SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1759.100G, 1759.110B, 1759.111B, 1759.118B, 1759.122A, 1759.127A, 1759.128A, 1353.01C and the site location plan.
- 3) Prior to the commencement of the development, and notwithstanding the details submitted, full details of the dormers, chimneys, kneeler and coping, eaves, string and plinth including how the string returns, corner stones, ventilation slots, door cases, louvered windows and steps, 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 retained as such thereafter.
- 4) Prior to the commencement of the development samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) Prior to the commencement of the development a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural ironstone, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.
- 6) Prior to the commencement of the development, and notwithstanding the details submitted, full details of the doors and windows and rooflights hereby approved, including fanlights, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.
- 7) Prior to the commencement of the development, and notwithstanding the details submitted, a plan showing full details of the finished floor levels in relation to existing ground levels on the site and proposed site levels for the proposed dwelling 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 finished floor levels plan.
- 8) Prior to the commencement of the development 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.

- 9) Prior to the commencement 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.
- 10) Prior to the commencement of the development hereby approved, a BS5837 Tree survey in respect of the large mature oak trees along the drive, all trees and hedgerows within an influencing distance of the demolition and construction work. Root protection areas to be defined and maintained during the duration of the work.
- 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.
- 12) All species used in the planting proposals associated with the development shall be native species of UK provenance.
- 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.
- 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.
- 15) A revised walk over badger check of the site shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on badgers. The survey results, together with any necessary changes to the mitigation plans or working

methods shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

- 16) Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site with particular reference to nesting/roosting provision for swallows and bats shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
- 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.
- 18) Prior to the commencement of the development, full specification details of the altered access and access road and turning area, including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwelling, the development shall be constructed in accordance with the approved details, and retained as such thereafter.
- 19) The rainwater goods installed to serve the development hereby permitted shall be cast iron or profiled aluminium and retained as such thereafter.
- 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.
- 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.