1. **APPLICATION SITE AND LOCALITY** 
   1. The site is an ‘L’ shaped steel-framed agricultural barn finished in metal sheet cladding 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 and 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.
   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 within a Minerals Consultation Area and partially within an area at higher risk of flooding (Flood Zone 2). A Public Right of Way (PRoW) ref. Restricted Byway 137/12 terminates adjacent the entrance to the site and runs in a westerly/south-westerly direction. Further PRoWs run across land west (Footpath 137/8) and east (Bridleway 137/4) of the site. There are records of Small Heaths (Butterflies), a notable species, being present within the vicinity of the site.
2. **DESCRIPTION OF PROPOSED DEVELOPMENT**
   1. The application comes following the granting of application 16/01587/F, for the proposed conversion of the existing agricultural building to a dwelling; granted planning permission on 21.11.2016.
   2. The current application has been submitted under Section 73 of the Town and Country Planning Act and seeks to vary the approved plans condition (condition 2 of 16/01587/F) to allow for an increase of the structural steel columns in section, alterations to the window fenestration and increase in ridge height of 450mm and eaves height of 450mm, as approved under the original application 16/01587/F.
   3. The design would be amended to allow for an increased overall height also allowing for first floor windows to be located wholly within the walls as opposed to breaching the eaves into the roof slope. The proposals would also result in the omission of proposed rooflights along the ridge-line on the original scheme and also the inclusion of an additional door in the southern elevation. The proposed schedule of construction materials of the proposed new building would remain as previously approved during the original application (16/01587/F) and subsequent clearance of conditions application ref. 17/00177/DISC.
3. **RELEVANT PLANNING HISTORY**
4. The following planning history is considered relevant to the current proposal:

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| Application Ref. | Proposal | Decision |
| 15/01578/Q56 | Prior approval for the conversion of barn to dwellinghouse under Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). | Un-determined |
| 15/01780/CLUP | Certificate of Lawfulness of Proposed Use for the conversion of agricultural barn to dwelling | Application Permitted |
| 16/01587/F | Conversion of agricultural building to dwelling following Certificate of Lawful Development 15/01780/CLUP | Application Permitted |
| 17/00177/DISC | Discharge of condition 4 (cladding) of 16/01587/F | Application Permitted |

1. **PRE-APPLICATION DISCUSSIONS**
2. No pre-application discussions have taken place with regard to this proposal.
3. **RESPONSE TO PUBLICITY**
   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 01.03.2018, although comments received after this date and before finalising this report have also been taken into account.
   2. No comments have been raised by third parties.
4. **RESPONSE TO CONSULTATION**
   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

* 1. BODICOTE PARISH COUNCIL: No objections subject to conditions.

STATUTORY CONSULTEES

* 1. HIGHWAYS AUTHORITY: No objections.
  2. MINERALS AND WASTE: No objections.
  3. THAMES WATER: No comments received.

NON-STATUTORY CONSULTEES

* 1. BUILDING CONTROL: No objections.
  2. ECOLOGY: No objections.
  3. ENVIRONMENTAL PROTECTION: No objections.
  4. HOUSING STANDARDS: No comments received.
  5. RIGHTS OF WAY OFFICER: No comments received.

1. **RELEVANT PLANNING POLICY AND GUIDANCE**
2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
3. 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 Part 1)

* PSD1: Presumption in Favour of Sustainable Development
* BSC 2: The Effective and Efficient Use of Land
* ESD1: Mitigating and Adapting to Climate Change
* ESD 6: Sustainable Flood Risk Management
* ESD 7: Sustainable Drainage Systems (SuDS)
* ESD10: 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)

* H19: Conversion of buildings in the countryside
* C28: Layout, design and external appearance of new development
* C30: Design control

1. Other Material Planning Considerations

* National Planning Policy Framework (NPPF)
* Planning Practice Guidance (PPG)

1. **APPRAISAL**
2. 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-031-20140306)*

1. 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 16/01587/F (approved plans condition), to be varied to allow for an increase in the overall height and revised fenestration detailing, as set out above.
2. 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 buildings and the visual amenities of the site and its setting within the wider landscape.

Principle:

1. The principle of development was previously considered acceptable with the granting of permission 16/01587/F; the proposed increased overall height and revised fenestration detailing does not in officer’s opinion 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:

1. 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. The NPPF also places significant weight on conserving and enhancing the natural environment, which is seen as one of the core principle of sustainable development. These aims are reflected in the policies of the Cherwell Local Plan.
2. Policy ESD13 of the Cherwell Local Plan 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. It goes onto state that proposals will not be permitted if they would result in undue visual intrusion into the open countryside or would harm the setting of settlements.
3. Policy ESD15 of the Cherwell Local Plan states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design; stating that development should contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features.
4. Saved Policy C28 of the CLP 1996 further 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 rural or urban context of that development.
5. Whilst not directly objecting to the proposals, the Parish Council raises concerns with regards to the prominence of the proposed building and large windows causing light intrusion along the adjacent lane.
6. It is considered by officers that the proposed increase (450mm) in the overall height of the building would not increase the prominence of the building within the landscape to such an extent that the proposals should no longer be supported. It would allow for first floor windows of the proposals being located wholly in the walls of the development, as opposed to breaching the eaves and being partly located within the roof-slope; which is considered by officers to be to the benefit of the overall aesthetics of the proposed scheme.
7. Whilst there has been a slight increase in the size of some of the proposed windows from the previously approved scheme, this is not major and is unlikely to result in any significant further impacts in terms of light intrusion above those assessed and considered acceptable under the original consent (16/01587/F).
8. It is considered by officers that the proposed amendments would result in a building that would not have any significantly greater impact than that previously considered acceptable with the approval of the original application (16/01587/F). The proposals are considered to sustain the character and appearance of the site and its setting within the wider rural landscape, albeit in a contemporary style of development, and are considered to be acceptable in terms of visual amenity.

Residential amenity:

1. Given the remote rural context of the site and its separation from other properties, the proposed amendments, as set out above, would not introduce any further impacts on residential amenity above those assessed and considered acceptable under application 16/01587/F, and are therefore considered acceptable in this regard.

Highway safety:

1. The proposals would not introduce any further impacts on highway safety above those assessed and considered acceptable under application 16/01587/F, and are therefore considered acceptable in this regard.

Flood-risk:

1. The proposals would not result in any further impacts in relation to potential flood-risk, above that previously assessed under the original application (16/01587/F).

Other Matters:

1. 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”*. The conditions have been updated to reflect the variation to the approved plans condition (condition 2) that is the subject of this application, and the external cladding material condition (condition 4) that has been previously been addressed through the submission and approval of clearance of condition application 17/00177/DISC.
2. **PLANNING BALANCE AND CONCLUSION**
3. The principle of development and detail of such has previously been considered acceptable with the granting of the original permission 16/01587/F. Given the above assessment it is considered that the proposed amended height and revised fenestration detailing of the proposed barn conversion is considered acceptable in terms of visual amenity and introduces no further impacts above those which have previously been assessed and considered acceptable, with the approval of the previous consent, and the application is therefore recommended for approval as set out below.

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| 1. **RECOMMENDATION**   That permission is granted, subject to the following conditions:  **Conditions:**   1. The development to which this permission relates shall be begun not later than the 21st November 2019.   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.   1. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms and drawings numbered: 3528/25, 3528/26, 3528/27, 3528/28 and 3528/29, submitted with this application and the following documents previously approved under the original application 16/01587/F: ‘Forge Engineering Design Solutions Flood Risk Assessment FRA1, ‘Supporting Statement’ and drawings labelled: 3528/map/B and 3528/24B.   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.   1. Prior to the commencement of the development hereby approved, and notwithstanding the details submitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the surface water and foul sewage drainage scheme shall be implemented in accordance with the approved details.   Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996, Policies ESD1, ESD6 and ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.   1. The timber cladding to be used in the construction of the external walls and roof of the development, shall be in accordance with the samples and details approved under application 17/00177/DISC, unless otherwise agreed in writing by the Local Planning Authority.   Reason - To ensure the satisfactory appearance of the completed development and to ensure that the completed development is in keeping with and conserves the rural character of the surrounding area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.   1. Prior to the first occupation of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-   (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas;  (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) full design and construction details of the hard surface areas;  (d) full design and construction details of any new boundary treatments  Thereafter, the development shall be carried out in accordance with the approved landscaping scheme and retained as such thereafter.  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 saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.   1. 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 saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.   1. Prior to the occupation of the development hereby approved, full details of the refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwelling, the refuse bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.   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 saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.   1. The access, parking and manoeuvring areas shall be kept free of obstructions at all times and used only for the specified purpose.   Reason - In the interests of highway safety, to ensure a proper standard of development and to comply with Government guidance contained within the National Planning Policy Framework.   1. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling shall not be altered, enlarged or extended, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.   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 ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.  PLANNING NOTES   1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved. 2. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900. 3. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places. 4. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive. |

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| Case Officer: | Bob Neville | DATE: 12/03/2018 |
| Checked By: | Nathanael Stock | DATE: 13.03.2018 |