

APPLICATION NO.	P16/S3997/FUL and P16/S3998/LB
APPLICATION TYPE	FULL APPLICATION and LISTED BUILDING CONSENT
REGISTERED	7.12.2016
PARISH	CUDESODON
WARD MEMBER(S)	Elizabeth Gillespie
APPLICANT	Madgalen College
SITE	Dove House Farm, Cuddesdon, OX44 9HG
PROPOSAL for P16/S3997	Conversion of traditional buildings into office accommodation and three residential conversions, and five new build residential units (as amended by revised Design & Access Statement received 23 April 2010 and drawings and information accompanying letter from Agent dated 3 January 2013, as amended by plans accompanying letter from agent dated 4 March 2013 and as clarified by additional transport report from ace dated June 2013). Variation of conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 of P10W0093 to allow construction of the site access before agreement of pre commencement conditions. And the removal of condition 19.
PROPOSAL for P16/S3998/LB	Conversion of traditional buildings into office accommodation and three residential conversions, and five new build residential units (as amended by revised Design & Access Statement received 23 April 2010 and drawings and information accompanying letter from Agent dated 3 January 2013, as amended by plans accompanying letter from agent dated 4 March 2013 and as clarified by additional transport report from ace dated June 2013). Variation of conditions 4,5,6 of P10W0094/LB to allow construction of the site access before agreement of pre commencement conditions.
AMENDMENTS	None
GRID REFERENCE	460165/203053
OFFICER	Sharon Crawford

1.0 INTRODUCTION

1.1 The applications have been referred to the Planning Committee because the recommendation to grant planning permission and listed building consent conflicts with the views of the Cuddesdon Parish Council. The Parish council object to the applications for the reasons set out in paragraph 3.1 of this report.

1.2 Dovehouse Farm lies on the edge of the village of Cuddesdon on a hillside. It is a farmyard with some modern and some old buildings. One of the barns is a grade II listed building and the site is adjacent to All Saints Church; also listed as are a number of headstones within the grave yard. The Green Belt washes over the whole of Cuddesdon.

1.3 The site is identified on the Ordnance Survey Extract **attached** at Appendix 1.

2.0 PROPOSAL

2.1 The proposal involves two applications under Section 73 of the Town and Country Planning Act for the:

- Variation of conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 of P10W0093 to allow construction of the site access before agreement of pre commencement conditions.
- The removal of condition 19 (Code for Sustainable Homes) of P10/W0093.
- Variation of conditions 4, 5, 6 of P10W0094/LB to allow construction of the site access before agreement of pre commencement conditions.

2.2 Reduced copies of the plans and documents accompanying the application are **attached** at Appendix 2. Full copies of the plans and consultation responses are available for inspection on the Council's website at www.southoxon.gov.uk.

2.3 A legal agreement has been signed in relation to the original application to secure affordable housing and contributions to the county council for infrastructure improvements. The legal agreement also includes enabling development to secure the stabilisation and repair of the listed tithe barn.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

Full responses can be found on the Council's website

3.1 Cuddesdon Parish Council The applicant wishes to construct the site access before satisfying the pre-conditions for commencement of work in order to circumvent the requirement stipulated in the granting of the previous application (P10W0093) that the development must be begun before the 6 June 2017. The applicant is doing this to minimise expenditure while satisfying the requirement to start work within three years of the granting of the previous application. In other words, he is doing it simply for financial gain. The development proper could then be started at any time in the future, with no time limit.

The conditions imposed at the granting to the previous application were defined by policies of the SOCS and the SOLP. It would be wholly inappropriate for these requirements to be ignored before the development commences.

3.2 OCC (Highways) Comments to be updated verbally.

3.3 OCC Archaeology The area concerned lies within an area of some archaeological interest related to the medieval development of the settlement. The site contains a listed C16th Barn, restored in the C19th (PRN 5446) and the remains of a medieval Timbered Hall (PRN 5445) on the first floor and roof with stone ground floor walls. The area of the application is likely to have had more medieval and early post medieval settlement within it and although the site has seen a fairly large amount of modern disturbance it is likely that archaeological deposits related to these periods could survive within the site.

We therefore recommended conditions on application P10/W0093 (11 and 12) to ensure that a programme of archaeological investigation is

undertaken ahead of any development on the site. The proposed access route will also need to be subject to an archaeological investigation and we would therefore not recommend that these conditions are amended to remove the access route.

The programme of archaeological investigation required by these conditions can be undertaken as a series of stages and if the applicant only wishes to construct the access route at this stage then an archaeological watching brief can be undertaken on this section of the proposal only. This would not require any variations to the original conditions and a partial discharge of condition 11 can be agreed following the submission of an appropriate written scheme of investigation.

Countryside Officer This proposal does not include alterations to the scheme itself and is simply to enable works to the access to commence. I have no heritage objections.

Forestry No objection.

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P16/S3248/PEM](#) – Response (21/11/2016)

Conversion of the tithe barn, three residential conversions and five new build residential units

[P10/W0094/LB](#) - Approved (06/06/2014)

Conversion of traditional buildings into office accommodation and three residential conversions (as amended by revised Design & Access Statement received 23 April 2010 and drawings and information accompanying letter from Agent dated 3 January 2013 & as amended by plans acc letter from agent dated 4 March 2013 & as clarified by additional transport report from ace dated June 2013).

[P10/W0093](#) - Approved (06/06/2014)

Conversion of traditional buildings into office accommodation and three residential conversions, and five new build residential units(as amended by revised Design & Access Statement received 23 April 2010 and drawings and information accompanying letter from Agent dated 3 January 2013, as amended by plans accompanying letter from agent dated 4 March 2013 and as clarified by additional transport report from ace dated June 2013).

[P05/W1233/LB](#) - Withdrawn (24/03/2010)

Alterations necessary for the conversion of traditional buildings.

[P05/W1228](#) - Withdrawn (24/03/2010)

Conversion of traditional barns to office accommodation, three residential units and three new build residential units.

[P04/W1184](#) - Withdrawn (14/12/2004)

Conversion of traditional barns to office accommodation and three residential units, and three new residential units.

[P04/W1183/LB](#) - Withdrawn (13/12/2004)

Alterations necessary for the conversion of traditional barns to office accommodation and three residential units, and three new residential units.

5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Core Strategy policies

CSEN2 - Green Belt protection
CSEN3 - Historic environment
CSH3 - Affordable housing
CSQ2 - Sustainable design and construction
CSQ3 - Design
CSR1 - Housing in villages
CSS1 - The Overall Strategy

5.2 South Oxfordshire Local Plan 2011 policies;

C4 - Landscape setting of settlements
C8 - Adverse affect on protected species
C9 - Loss of landscape features
CON2 - Extensions to listed buildings
CON3 - Alteration to listed building
CON5 - Setting of listed building
CON7 - Proposals in a conservation area
D1 - Principles of good design
D10 - Waste Management
D2 - Safe and secure parking for vehicles and cycles
D3 - Outdoor amenity area
D4 - Reasonable level of privacy for occupiers
D7 - Access for all
E5 - Business, industrial, warehousing and storage proposals
EP1 - Adverse affect on people and environment
EP6 - Sustainable drainage
EP7 - Impact on ground water resources
G2 - Protect district from adverse development
G4 - Protection of Countryside
GB4 - Openness of Green Belt maintained
H4 - Housing sites in towns and larger villages outside Green Belt
T1 - Safe, convenient and adequate highway network for all users
T2 - Unloading, turning and parking for all highway users

South Oxfordshire Design Guide 2008

5.3 National Planning Policy Framework

National Planning Policy Framework Planning Practice Guidance

5.4 **Other Relevant Legislation**

- Planning (Listed Buildings and Conservation Areas Act) 1990
- Community & Infrastructure Levy Legislation Human Rights Act 1998
- Section 17 of the Crime and Disorder Act 1998
- Natural Environment and Rural Communities (NERC) Act 2006
- The Conservation of Habitats and Species Regulations 2010

6.0 **PLANNING CONSIDERATIONS**

6.1 When assessing section 73 applications the Council can only consider the original condition(s) and the reasons for applying the condition(s); new conditions can be attached but only in so far as they apply to the original condition. If the Council decides

that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.

The main issues in the case of this application are:

- Background
- Are the revisions to the conditions acceptable?
- Removal of condition 19

- 6.2 **Background.** The history of the current planning permission and listed building consent has been complicated and this is reflected by the fact that the planning permission and listed building consent took some four years to negotiate and bring forward an acceptable scheme.
- 6.3 Since the planning permission and listed building consent were granted there has been a change in the threshold for small scale development schemes in respect of affordable housing and more detailed work has been carried out on the costings for the conversion of the tithe barn.
- 6.4 As a result of these changes a revised planning application for the redevelopment of the site will be submitted in the near future. The proposed development will be very similar to the extant planning permission but a number of proposed changes make it necessary to seek a new planning permission and listed building consent. The existing permissions however expire on 6 June 2017 and the applicant's agent would like to commence the existing permission, by constructing the access, to keep the planning permission live. A number of pre-commencement conditions prohibit the commencement of development on the whole site until various details have been submitted to and approved in writing by the council.
- 6.5 **Are the revisions to the condition acceptable?** The suggested changes to the conditions on the planning permission and listed building consent would allow for works to the access to be completed to allow the commencement to be triggered. My recommendation suggests rewording the pre-commencement conditions to read – "prior to the commencement of development, apart from works to construct the site accesses....". This means that all the details covered by the original conditions will still have to be submitted for approval but allows for the construction of the access before the 6 June 2017.
- 6.6 Planning permissions for large schemes often include conditions that allow for development to be phased to allow for various sectors to be built out at different times and the construction of the access would in effect amount to phase 1 of the larger scheme. The parish council are concerned that once the works to create the access commence this will keep the planning permission live for ever. The development proper could then be started at any time in the future, with no time limit. There is a limited chance that the development may not be built out for a number of years, in which time, planning policies may change. However, the requirements of the legal agreement and the conditions will still apply and there is no disadvantage in this scenario in my view apart from development not coming forward as quickly as we would like. Any policy changes involving the details of the outstanding conditions would also need to be the subject of a further sect 73 application, at which time the council could review such changes.
- 6.7 In any event it is likely that a revised application for the whole site will be submitted to the council in the near future to re-consider the provision of affordable housing, the use of the Grade II* listed building for offices and the S106 contributions/CIL

contributions. The thresholds for affordable housing have changed and more detailed costings have revealed that the original office conversion of the Grade II* barn may not be viable. Any new applications will be determined on their own merits.

- 6.8 There are no changes to the details of the applications or planning policy since planning permission and listed building consent were granted (other than the threshold for affordable housing) and the original delegated report for the planning application is attached at **Appendix 3** for information. The proposals continue to be acceptable because the overall built form on the site will be considerably reduced and the setting of the listed buildings (barn and church) and the character of the conservation area will be considerably enhanced. The development will also fund important and necessary repairs and will secure the continued use of the listed building. All of these factors are considerable benefits and represent special circumstances that outweigh the fact that the development is inappropriate development in the Green Belt, in addition openness is improved because the volume of buildings to be removed will be in excess of the volume to be constructed. In other respects the development accords with the Development Plan policies subject to the recommended conditions.
- 6.9 **Removal of condition 19.** On 27 March 2015 the government announced a new approach to the setting of technical housing standards in England. The ministerial statement withdrew the Code for Sustainable Homes. In light of this statement the condition requiring Code Level 4 should no longer be imposed on new dwellings. There are a number of existing permissions with this condition attached and the ministerial statement allows for 'legacy' cases to be dealt with. However, if the condition is not complied with it would not be expedient to take enforcement action or to refuse an application to relax the condition. As an application has been made in this case planning permission should be granted.
- 6.10 **Community Infrastructure Levy (CIL).** The council's CIL charging schedule has been adopted and will apply to relevant proposals from 1 April 2016. CIL is a planning charge that local authorities can implement to help deliver infrastructure and to support the development of their area, and is primarily calculated on the increase in footprint created as a result of the development.

Applications under S73 are not CIL liable.

7.0 CONCLUSION

- 7.1 I recommend that planning permission is granted for a variation of conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15 and 16 of P10W0093 to allow construction of the site access before agreement of pre commencement conditions because the requirements of the conditions will still continue to apply to the development. There is no disadvantage in allowing development to commence for a scheme that the council continues to support. This element of the proposal accords with the Development Plan Policies.

I recommend that planning permission is also granted for the removal of condition 19 (code 4 of the Code for Sustainable Homes) because the Code for Sustainable Homes has been withdrawn. The proposal accords with the Development Plan Policies.

- 7.2 I also recommend that Listed building consent is granted for the variation of conditions 4, 5 and 6 of P10W0094/LB to allow construction of the site access before agreement of pre commencement conditions because the requirements of the conditions will still continue to apply to the works. There is no disadvantage in allowing works to commence for a scheme that the council continues to support. The proposal accords with the Development Plan Policies.

8.0 **RECOMMENDATION**

8.1 **To grant planning permission subject to the following conditions:**

- 1 : No change to original condition – commencement.
- 2 : No change to original condition – approved plans.
- 3 : Demolish specified buildings.
- 4 : Sample materials required (all).
- 5 : Estate accesses, driveways and turning areas.
- 6 : Construction traffic management.
- 7 : Roads and footpaths prior to occupation.
- 8 : Contamination - (investigation).
- 9 : Foul Drainage.
- 10 : No change to original condition - Surface and foul water drainage works.
- 11 : No change to original condition - Archaeological watching brief.
- 12 : No change to original condition - Implementation of programme of archaeological work.
- 13 : External ducts and flues (details required).
- 14 : Joinery details.
- 15 : Wildlife protection.
- 16 : Landscaping (access/hard standings/fencing/walls).
- 17 : No change to original condition - Vision splay protection .
- 18 : No change to original condition - No surface water drainage to highway.
- 19 : Condition removed - Code Level 4.
- 20 : No change to original condition - Withdrawal of permitted development rights (Part 1 Class A) - no extensions etc.
- 21 : No change to original condition - Withdrawal of permitted development rights (Part 1 Class E) - no buildings etc.

8.2 **To grant listed building consent subject to the following conditions:**

- 1 : No change to original condition – commencement.
- 2 : No change to original condition – approved plans.
- 3 : No change to original condition – demolish specified buildings.
- 4 : Sample materials.
- 5 : Detailed specification of external ducts, flue pipes, external venting.
- 6 : Detailed specification of windows and external doors.
- 7 : No change to original condition - Detailed specification of works to listed building.
- 8 : No change to original condition - Rainwater goods to be painted black.
- 9 : No change to original condition - Retain stone steps to building G.

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