
APPLICATION NO.	P21/S0560/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	3.2.2021
PARISH	HOLTON
WARD MEMBER(S)	Vacancy for Forest Hill and Holton ward
APPLICANT	Mr G Park
SITE	Land between Swallow Barn and 2 Church End Cottages, Waterperry Road Holton, OX33 1PW
PROPOSAL	Erection of stable building and retention of associated access track and gate (as amended by drwgn0 8195 BL A to move the proposed stable further south and amplified by a proposed planting scheme received on 16/03/21).
AMENDMENT	Amended by drwgn0 8195 BL A to move the proposed stable further south and amplified by a proposed planting scheme received on 16/03/21
OFFICER	Will Darlison

1.0 INTRODUCTION AND PROPOSAL

- 1.1 The application has been referred to Planning Committee at the request of Cllr Sarah Gray. The call in was on the grounds of the impact on the neighbouring property: Swallow Barn.
- 1.2 The application site is located close to the village of Holton, specifically to the east and comprises land that lies between Swallow Barn, a residential property to the west and 2 Church End Cottages to the east. It extends from the Waterperry Road south east for some 255 metres.
- 1.3 The application site is washed over by the Oxford Green Belt. A plan identifying the site is attached at **Appendix 1** to this report.
- 1.4 The application seeks planning permission for the retention of the constructed vehicular access gate and track leading from the north west corner of the red edged site area south along the western edge of the site. The erection of a single L-shaped stable building is proposed, which would replace two stable buildings currently on site that do not benefit from permission. The use of the stable and the surrounding land around it would be used in connection with the keeping and grazing of horses.
- 1.5 The application has been amended over the course of the determination period in order to respond to concerns about the impact the development would have on the amenities of the neighbouring residential property. This has taken the form of the relocation of the proposed stable building further south and the introduction of a proposed planting scheme with the aim to provide natural screening along the shared boundary.
- 1.6 Reduced copies of the plans accompanying the application are attached at **Appendix 2** to this report. All the plans and representations can be viewed on the Council's website www.southoxon.gov.uk under the planning application reference number.

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

2.1 **Holton Parish Council – Objection**

- The access track and hardstanding that has been carried out required planning permission but have not been covered in this application
- A previous application, P19/S2117/FUL covered the entrances to this and the adjoining site. What is now the vehicular access gate was approved as a pedestrian gate 1.8 metres wide and is therefore in contravention of that permission
- The siting of the proposed stables is unnecessary and unneighbourly. They will be in the direct sight line from the windows of Swallow Barn and within 2 metres of the boundary.
- The stables would produce a large quantity of soiled bedding and excrement which has to be removed on a regular basis. The impact of the smell from this would be unpleasant and has not been addressed in the application
- The applicant has other land on which to locate the stable. We would request that the applicant considers an alternate siting

Drainage – No objection subject to condition

Countryside Access – Initial objection withdrawn subject to a clarification being made with regards to the route of a nearby public footpath

Oxfordshire County Council Single Response – Highways: No objection subject to condition

Archaeology: No objection subject to conditions

CPRE -N J Moon (Rights of Way) – Comments made about making sure that the definitive line of FP8 is understood and not obstructed by fences etc.

Forestry Officer – No objection subject to condition

Neighbour representations – Neighbour Objection x (1)

- The development conflicts with the NPPF and the Development Plan
- The agent's letter and application form are misleading and contain factual inaccuracies
- The proposals do not address the stone roadway and stable building which were constructed without planning permission and are subject to enforcement investigation by SODC
- The development is inappropriate development in the Green Belt as the land is agricultural and not equestrian and a such does not fall within the exception contained under para 145 (b)
- The land is subject to a covenant restricting its use to agricultural in perpetuity
- It is contrary to Policy ENV1 as the potential for rats, smells and flies will impact on the amenity of our home
- The proposals make no allowance for where the waste will be stored and disposed of. It could be dumped close to Swallow Barn
- The agents letter states the land is currently used for the grazing of horse and the application form also states this. The land is agricultural not equestrian
- The agents letter states that there is no intention or desire to use the building or land for commercial purposes but para 83 on page 2 refers to business growth and agricultural diversification

- The agents letter states there is no pond on site, but it did exist for many years. It was filled in in the last year
- The pond caused localised flooding
- The stables that are present at Swallow Barn are not used as stables but for storage
- The unauthorised development that is under enforcement investigation under reference SE20/173 has not been addressed and should not be approved under this application either directly or by implication
- The existing stables are not temporary

3.0 **RELEVANT PLANNING HISTORY**

3.1 [SE20/173](#)

Without planning permission, the creation of an access track, the laying of hardstanding and the erection of stables

[P19/S2117/FUL](#) - Approved (23/08/2019)

Proposed widening of the shared road access to Swallow Barn and New Barn, and the creation of a gated entrance to each.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 N/A

5.0 **POLICY & GUIDANCE**

5.1 **National Planning Policy Framework and Planning Practice Guidance**

5.2 **South Oxfordshire Local Plan 2035 (SOLP) Policies:**

DES1 - Delivering High Quality Development

DES2 - Enhancing Local Character

DES5 - Outdoor Amenity Space

DES6 - Residential Amenity

DES8 - Promoting Sustainable Design

ENV1 - Landscape and Countryside

ENV3 - Biodiversity

ENV9 - Archaeology

EP4 - Flood Risk

STRAT1 - The Overall Strategy

STRAT6 - Green Belt

TRANS5 - Consideration of Development Proposals

5.2 **Neighbourhood Plan**

Holton does not have a made neighbourhood plan.

5.3 **Supplementary Planning Guidance/Documents**

South Oxfordshire Design Guide 2016 (SODG 2016)

5.4 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application, the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 **PLANNING CONSIDERATIONS**

6.1 **The relevant planning considerations are the following:**

- **Principle of development.**
- **Impact on the openness of the Oxford Green Belt.**
- **Impact on neighbours.**
- **Design, appearance and the impact on the character of the area.**
- **Impact on trees.**
- **Impact on drainage.**
- **Impact on archaeology.**
- **Impact on access and parking.**
- **Carbon reduction.**
- **Intentional Unauthorised Development.**
- **Other issues.**

6.2 **Principle of development.** The site is situated outside of the built-up limits of Holton and is therefore considered to be within the open countryside. Policy STRAT6 of the SOLP states that development in the Green Belt will be restricted to development deemed appropriate within the NPPF unless very special circumstances exist.

6.3 Subject to meeting the requirements of national Green Belt policy the development would be acceptable in principle. This shall be explored below in detail beginning with para. 6.7 of this report.

6.4 Objections have been received from Holton Parish Council and the neighbour at Swallow Barn that relate to the enforcement investigation at the site in relation to unauthorised development in the form of the current two stable buildings, the access track and the alterations to the access point. These comments have put forward that the application does not address the unauthorised elements of development and that this application should not directly or indirectly approve them.

6.5 With respect to the first point, the original description for the application was not clear and precise. The application forms state that the application was for the erection of stable building and “related works” but did not specify the nature of the related works. The related works have been confirmed by the agent to include the track and access point alterations. Therefore, as part of the amendment consultation process the description of development was edited to make it explicitly clear what the application entailed.

6.6 The second point is incorrect, the application process is there for applicants to apply for what they want, this includes the ability to apply retrospectively to regularise elements of unauthorised development. It is important to note that the site is not subject to an Enforcement Notice for the stables, track and access point, it is in fact subject to an enforcement investigation. The distinction between the two is very important, with the latter allowing and often encouraging that planning permission is sought for works that are unauthorised. It is therefore in my opinion entirely appropriate for this application to have been submitted for the retention of existing element of development as well as for the removal of the unauthorised stable buildings and the erection of a proposed stable.

6.7 **Impact on the openness of the Oxford Green Belt.** The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. This is set out in Section 13 of the advice from Central Government in the National Planning Policy Framework and supported in Policy STRAT6 of the SOLP.

6.8 The five purposes of the green belt are;

- to check the unrestricted urban sprawl of large built up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

6.9 In addition, there is a general presumption against inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt. 'Very special circumstances' to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other circumstances.

6.10 The NPPF advises that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt except for the following purposes;

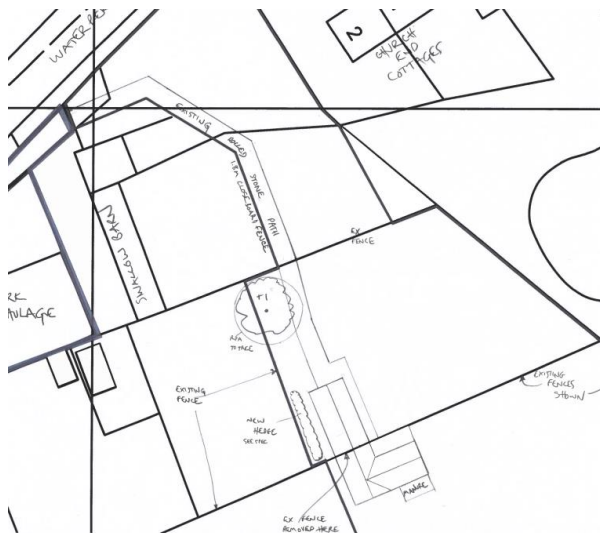
- Agriculture and forestry.
- **Appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation**, for cemeteries and other uses of land which preserve the openness of the green belt and don't conflict with the purposes of including land in it.
- The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
- The replacement of a building where it is in the same use as the existing and is not materially larger.
- Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan or;
- Limited infilling or partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

6.11 The proposed development taken as a whole and the associated use of the land for equestrian purposes would in my opinion fit with the emboldened section in the above list. The stables would be used for private recreational purposes as set out in the covering letter accompanying the application with it being made clear that there is no intention or desire for the building or the land to be used for commercial purposes. There is no evidence to question this assertion and applications are assessed on the basis of what has been applied for. I am therefore of the view that the development is an appropriate form of development within the Oxford Green Belt and as such would not pose harm to its openness. It would, on this basis, be compliant with NPPF policy as well as STRAT6 of the SOLP. This is subject to an appropriately worded condition which will require the removal of the existing stables prior to the first use of the proposed ones.

6.12 Objections have been received from the neighbour at Swallow Barn that the proposed stable would not fall within the emboldened exception in para. 6.10 of this report. They consider that the equestrian use of the site (rather than agricultural) is not included in this exception. This is not correct, the exception in bold clearly states that the appropriate facilities for outdoor sport and outdoor recreation can be in connection with

not only the existing use of the land but also in connection with a change of use. It is implicit in the application that the permission is being sought not only for the stable building in question but also for the necessary change of use by which the proposed building can be used for its intended purpose. It is my view that neither the operational development nor the use of the land for equestrian purposes is inappropriate in the Oxford Green Belt as has been covered in para. 6.9 of this report. This is subject to the use being private and not commercial and as such a condition shall be attached restricting it as such.

- 6.13 The neighbour has also made reference to the land in question being the subject of a restrictive covenant that requires that the land is used for agricultural in perpetuity and that this would prevent the equestrian use. These comments are noted but the presence of a covenant such as this would not have a bearing on the assessment of a planning application directly related to the nature of the covenant. Equally it is the case that the granting of planning permission would not quash a restrictive covenant.
- 6.14 **Impact on neighbours.** DES6 of the SOLP states that development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses. Such factors include a loss of privacy, daylight or sunlight and dominance or visual intrusion.
- 6.15 The siting of the proposed stable building has been amended to relocate it further to the south and away from the residential garden of Swallow Barn. This can be seen below in the extract from the amended proposed block plan. The proposed stable would be sited approximately 20 metres away from the domestic garden of Swallow Barn. This is in my opinion an adequate separation from the neighbour to avoid the structure having an overbearing and dominant impact on the property. In addition, this is aided through the entirely single storey scale of the stable building with a sloped roof that rises up and away from the west and with the new hedge planting proposed. It would also not result in a materially harmful loss of direct sunlight or ambient daylight.



Amended Proposed Block Plan

- 6.16 The proposed stable building would include no openings in its western or northern elevations and as such I do not consider that it would represent harm to the privacy of Swallow Barn. The matter of views of the stable building from Swallow Barn (south facing room and from the garden), at this separation and when appreciating the single

storey scale of the structure, would not be intrusive. Furthermore, it should be highlighted that views of or over land that you do not own is not a protected characteristic in the planning system.

- 6.17 Policy DES6 also includes factors pertaining to smell, pollution and contamination and as such the proposed stable use introduces considerations with respect to the impact of the manure and soiled bedding materials that would be produced. This has been raised as of particular concern by the neighbours at Swallow Barn. The amended block plan has through the relocation of the stable sought to alleviate concerns with this as well as through the specific inclusion of an area behind the south east section of the stable for the storage of these materials.
- 6.18 I view this as being sufficient to demonstrate compliance with the requirements of Policy DES6. The matter of animal waste and the associated issues of smell, flies and rats should also be seen in the context of the existing use of the site. The lawful use of the site and of the land to the south of the cluster of buildings being agricultural in nature means that there is the reasonable likelihood that materials, machinery and associated agricultural items could be sited and stored at the site without there being any permission required from the District Council. Where such activities would cause disturbance there exists environmental protection legislation that exists separate from the planning system and that would be the route by which any problems would be resolved. The same would be the case with the proposed stable and equestrian use.
- 6.19 **Design, appearance and the impact of the character of the area.** DES1 of the SOLP states that all new development must be of a high-quality design with DES2 ensuring that it must respond to and enhance local character.
- 6.20 The proposed stable would be of a design that would be entirely within the established vernacular for a rural stable building using a commonly employed L-shaped footprint and roof overhang. The external materials would comprise of horizontal shiplap cladding under a corrugated sheet roof. I am satisfied that the design would not make the stable an incongruous or damaging feature in the landscape of the area.
- 6.21 The proposed access track and gated access at the front of the application site is of an appearance that is not incongruous with a rural location such as this and is neither incongruous or prominent from outside the confines of the site.
- 6.22 **Impact on trees.** Policy ENV1 relates to both landscape and countryside. It states that South Oxfordshire's landscape, countryside and rural areas will be protected against harmful development. Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of South Oxfordshire's landscapes, in particular trees (including individual trees, groups of trees and woodlands), hedgerows and field boundaries.
- 6.23 The application has been the subject of assessment by the Forestry Officer with regards to the impact that the existing acts of development as well as the proposed would have upon trees in the vicinity. It is worth noting that the site is not within a conservation area nor is it the subject of any Tree Protection Orders, however this is a rural location and the contribution that trees make to the character of the area is a valuable one. The Forestry Officer has concluded that they have no objection to the development subject to the imposition of a tree protection condition on any forthcoming permission. This would be to provide an acceptable protection plan for the construction phase to ensure that during this time the trees are not the subject of harm. This is in my opinion appropriate given the rural location and is in accordance with Policy ENV1 of the SOLP.

- 6.24 **Impact on drainage.** Policy EP4 relates to matters of flooding and states that the risk of flooding will be minimised through;
- i) directing new development to areas with the lowest probability of flooding;
 - ii) ensuring that all new development addresses the effective management of all sources of flood risk;
 - iii) ensuring that development does not increase the risk of flooding elsewhere; and
 - iv) ensuring wider environmental benefits of development in relation to flood risk.
- 6.25 Policy INF4 relates to water resources and requires that all new development proposals must demonstrate that there is or will be adequate water supply, surface water, foul drainage and sewerage treatment capacity to serve the whole development.
- 6.26 The application site is identified on Council records as being at risk of flooding from surface water and as such comments from the Drainage Engineers was sought to ensure that the proposals would not exacerbate the risk of flooding in the area. They have reviewed the submitted information and commented that they have no objection to the proposed development subject to a drainage condition being attached. This would require that prior to the commencement of the development, in this case specifically the construction of the stable, a full surface water drainage scheme will need to be submitted to, and approved in writing, by the Local Planning Authority. I consider this to be both reasonable and necessary given the site constraints and as such would be in accordance with the relevant development plan policies.
- 6.27 **Impact on archaeology.** Policy ENV9 of the SOLP aims to ensure that where development could disturb or adversely affect archaeological remains applicants will be expected to undertake appropriate desk-based assessment or field evaluation.
- 6.28 The site falls within an area of archaeological constraint due to the proximity of the site to finds of Bronze Age features, an Iron Age settlement site and a number of Roman features in the vicinity.
- 6.29 Further details regarding the construction have been submitted, which have clarified that the proposed stable building would be placed on a concrete raft on top of a very shallow compacted stone bed and that no strip foundations nor any significant excavations for water and drainage pipes are involved. In light of this and that the access track has already been constructed the County Archaeological Services do not require additional information by condition. I am therefore of the view that the development would not be contrary to Policy ENV9 of the SOLP.
- 6.30 **Impact on access.** With respect to highway safety matters the advice from Central Government set out in the National Planning Policy Framework (NPPF) is as follows: *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.* The term severe is locally interpreted as situations, which have a high impact, likely to result in loss of life, or a higher possibility of occurrence with a lower impact.
- 6.31 Policy TRANS5 seeks to ensure that development does not harm highway safety and provides for sufficient parking and turning areas
- 6.32 The application involves the retention of changes to the access to this site without planning permission, specifically the provision of a vehicular access track and gate.

OCC Highways have stated that they have no objection to the development on the basis that the stable building would be used for private and not commercial use. They considered that on this basis the proposal would be unlikely to result in any significant intensification of transport activity at the site. The proposal is also unlikely to have a significant adverse impact upon the highway network. OCC highways have suggested a condition to restrict the use to non-commercial equestrian use of the building and access only in the interest of the protection of highway safety.

- 6.33 **Countryside access.** Further information has been submitted to demonstrate that the route a local footpath is not impacted by the existing or proposed elements of this application. The Countryside Access team at Oxfordshire County Council now have no objection to the proposal. Any matters pertaining to the potential obstruction of the legally recorded route of Holton Footpath 8 are considered separate to the assessment of this application for planning permission.
- 6.34 **Carbon reduction.** Policy DES10 of SOLP requires proposals for non-residential development to meet the BREEAM excellent standard. Given the specific nature of the building for an equestrian use and its relatively modest size, I do not think that requiring the BREEAM excellent rating is reasonable in this case. The building is utilitarian in form and function is unlikely to be heated. The stable doors are likely to be open for much of the day when in use meaning that energy efficiency options are limited. I liken the use/type of building to an agricultural building – not lending themselves to BREEAM rating. In addition, the building will not be in public use. These factors weigh against the need to meet the BREEAM standard in this case.
- 6.35 **Intentional Unauthorised Development.** The planning system allows for retrospective planning applications to be made under S.73A of the Town and Country Planning Act 1990 (as amended), thus undertaking development without the relevant planning permission of itself is not a breach of planning control. The NPPF also advises that formal enforcement action should not be taken simply to regularise unauthorised development.
- 6.36 However, DCLG published a planning policy statement (31/08/2015) on green belt protection and intentional unauthorised development. This policy statement noted that “intentional unauthorised development”, could be a material planning consideration, highlighting concerns with regards to development undertaken without planning permission. In particular, the fact undertaking unauthorised development does not give opportunity to appropriately mitigate harm that has already taken place and can result in expensive, time consuming action. However, appeal cases have shown it is unlikely that this reason alone could be enough to refuse planning permission, or take enforcement action, but that it can be considered with other material considerations. In this case however, I conclude that the development undertaken without planning permission and which is now being sought for retention are minor in nature and do not present a reason in isolation to refuse planning permission.
- 6.37 **Community Infrastructure Levy.** In this case CIL is not liable for equestrian development as set out in the CIL charging schedule.

7.0 **CONCLUSION**

- 7.1 Officers recommend that planning permission is granted because the development would not materially harm the amenities of neighbouring properties. It would be of a design that would be in keeping with the rural character and appearance of the existing site, the wider site and it would not be harmful to the street scene. In conjunction with the attached conditions it will not harm the openness of the Green Belt, surface water drainage or highway safety and will accord with development plan policies.

8.0 **RECOMMENDATION**

8.1 **Planning Permission**

- 1 : Commencement three years - Full Planning Permission**
- 2 : Approved plans**
- 3 : Materials as on plan**
- 4 : Surface water drainage works (details required)**
- 5 : Tree Protection (General)**
- 6 : Landscaping implementation**
- 7 : Compliance with proposed block plan prior to first occupation**
- 8 : Private use of stables**

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