

APPLICATION NO.	P23/S2093/S73
APPLICATION TYPE	SECTION 73
REGISTERED	26.6.2023
PARISH	CUDDESDON
WARD MEMBER(S)	Sam James-Lawrie
APPLICANT	Mr D Wynne
SITE	Upper Farm Brook Lane Denton, OX44 9JQ
PROPOSAL	Variation of conditions 2 (Approval of drawings) and condition 3 (Approval of materials) on applications P18/S3750/FUL and P19/S3211/FUL for design of house changed and choice of materials changed. (Description from P19/S3211 = Variation of conditions 2 and 11 of P18/S3750/FUL to allow for the barns to be demolished, a phased approach to implementation to comprise of: Phase 1: Demolition of two buildings and site clearance. Phase 2: erection of a single residential dwelling, garage and associated works, and the enlargement of the garage.)
OFFICER	Will Darlison

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This report sets out the officer's recommendation that planning permission should be granted having regard to the material planning considerations and the development plan.
- 1.2 The application is referred to planning committee because the recommendation of approval conflicts with the views of Cuddesdon and Denton Parish Council.
- 1.3 The application site comprises the Southern section of the farmyard of Upper Farm and land to the East that lies to the North of the village of Denton. It formerly contained two modern agricultural barns, but one has been demolished. The site is accessed via a dead-end road/single track on the Eastern boundary known as Brook Lane.
- 1.4 The site, settlement and the wider area fall within the Oxford Green Belt.
- 1.5 A plan identifying the site can be found at **Appendix 1** to this report.
- 1.6 The application seeks to vary conditions 2 and 3 of planning permission P19/3211/FUL to alter the size, scale, design and position of the proposed dwelling and alter the vehicular access to the site.

- 1.7 Reduced copies of the plans accompanying the application can be found 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 Cuddesdon Parish Council – Objection

- The house has been moved closer to the lane and should be located where it previously was so it is less imposing
- The new house has a larger volume than the previous design
- The footprint of the buildings is larger than the previous design
- The previous design was more traditional and should be retained
- The new building should be located on the site of the previous barn, as was the case with the previous application
- The new access off Brook Lane is undesirable
- The previous objections to the previous applications are maintained. These include:
 - The site is not allocated in the neighbourhood plan
 - Two barn conversions under Permitted Development have already been allowed at this location. Further development is an overdevelopment of the site
 - The dwelling is excessively large
 - The new property and its garden extend beyond the location of the two barns and is therefore being built on green belt land
 - The access lane is very weak and not suitable for the increase in traffic
 - The barns were previously used as commercial premises. Retrospective planning permission was refused on the grounds of the lane being unsuitable for additional traffic
 - Concerns about increased traffic and construction traffic damaging nearby homes. A condition should be imposed restricting construction vehicles to smaller 4 wheeled vehicles
 - If granted a condition to bring the lane back to its previous state/condition upon completion of the development should be attached

OCC Archaeological Services – No objection

Drainage – No objection

OCC Highways Liaison Officer– No objection on highway safety grounds subject to conditions

- Accessibility of the site raised, and LPA asked that due consideration to the matter is given when evaluating sustainability of the proposals

Oxfordshire Public Rights of Way – No response received

Neighbour representations – Support x (3)

- The proposals are more visually attractive than the permitted development fall back which comprised the conversion of two steel agricultural buildings
- The proposed design changes are with architectural merit and will provide for efficient living for a modern family
- Property will be set back from the road by 19.6 metres therefore not imposing on anyone
- The ridge height and volume of the new dwelling is less than the one for which planning has been granted
- Renewable energy systems are to be installed which shall reduce the carbon footprint of the dwelling
- The farm traffic has reduced on Brook Lane due to their access now from the Wheatley Road north of the farm

3.0 RELEVANT PLANNING HISTORY

3.1 [P19/S3211/FUL](#) - Approved (26/02/2020)

Variation of conditions 2 and 11 of P18/S3750/FUL to allow for the barns to be demolished, a phased approach to implementation to comprise of: Phase 1: Demolition of two buildings and site clearance. Phase 2: erection of a single residential dwelling, garage and associated works, and the enlargement of the garage.

[P18/S3750/FUL](#) - Approved (24/05/2019)

Demolition of two buildings, erection of a single residential dwelling, garage and associated works (as amended by drwgnos PA01 A and PA02 A to site the dwelling further into the application site and reduce size of red line boundary received on 12 March 2019).

[P18/S1559/N4B](#) - Approved (29/06/2018)

Conversion to dwelling.

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

DES10 - Carbon Reduction

DES2 - Enhancing Local Character

DES5 - Outdoor Amenity Space

DES7 - Efficient Use of Resources

DES8 - Promoting Sustainable Design

ENV1 - Landscape and Countryside

ENV12 - Pollution - Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution)

ENV3 - Biodiversity

ENV6 - Historic Environment

ENV7 - Listed Buildings

H1 - Delivering New Homes
INF4 - Water Resources
STRAT1 - The Overall Strategy
STRAT6 - Green Belt
TRANS5 - Consideration of Development Proposals

5.3 Cuddesdon and Denton Neighbourhood Plan (CDNP) policies:

Policy CD1 – General Development Principles
Policy CD2 – Design Principles
Policy CD4 – Residential Parking

5.4 Supplementary Planning Guidance/Documents

5.5 South Oxfordshire and Vale of White Horse Joint Design Guide 2022 (JDG)

5.6 Other Relevant Legislation

5.7 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.

5.8 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 When assessing section 73 applications the Council can only consider the original condition and the reasons for applying the condition; 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.

6.2 Paragraph 15 of NPPG notes 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. It further advises that to assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

6.3 It is not intended to go through all of the planning issues that were assessed in connection with the principle of development as that has been established through the grant of planning permission under application reference P18/S3750/FUL and the first section 73 application P19/S3211/FUL. The scheme approved under P19/S3211/FUL has commenced through the demolition of one of the two agricultural barns and that permission remains extant.

6.4 This Section 73 application seeks permission for alterations to the extant scheme. The key considerations are therefore:

- **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**
- **Impact on the openness and visual amenity of the Oxford Green Belt.**
- **Access, parking and amenity space.**
- **Design and appearance of the dwelling and the impact on the character of the wider area.**
- **Impact on the setting of nearby listed buildings.**
- **Impact on neighbours.**
- **Contaminated land**
- **Impact on drainage.**
- **Impact on protected species.**
- **Carbon reduction.**
- **Other issues.**

- 6.5 **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.** Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.6 Since the previous permissions were granted there have been changes to the development plan with the formal adoption of both the South Oxfordshire Local Plan 2035 in December 2020 and the Cuddesdon and Denton Neighbourhood Plan in May 2021.
- 6.7 The previous permissions relied on a fallback position afforded by a prior approval for the conversion of part of the Eastern most of the two barns located within the application site, established under P18/S1559/N4B. Without that the development would not have been acceptable in principle under the then development plan. However, under the current local plan, Policy H1 3. vii) allows for residential dwellings to be created where they would bring redundant or disused buildings into residential use and would enhance its immediate surroundings. Therefore, the current policy is more supportive of a residential development at this site. The CDNP supports development outside the built up areas of its settlements where they are appropriate for the Green Belt location or can demonstrate very special circumstances (Policy CD1e).
- 6.8 Furthermore, due to the extant planning permission there is material fallback position in the form of the implementation of the previous approval.
- 6.9 Oxfordshire County Council Highways has, as part of their response on highway safety, also requested that the matter of accessibility be given due consideration. This is on the basis that in their view the accessibility of the development is poor with future residents being highly dependent on private

motor car to access essential services, employment and shops. There are also no pedestrian or cycle infrastructure provided to connect to the rest of the village.

- 6.10 The above points are noted; however, this is a s73 application to an extent permission and decision on the original planning permission cannot be revisited. A dwelling could lawfully be constructed on the site as part of the previous permission.
- 6.11 **Impact on the openness and visual amenity 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 and CD1 (e) of the Neighbourhood Plan.
- 6.12 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.
- 6.13 The principle of the development in terms of its impact on the Oxford Green Belt was found to be acceptable as part of the previous permissions. Therefore, the assessment on this application must be focused on what the impact the current proposals have in terms of openness beyond that previously approved.
- 6.14 The volume of the two buildings (one of which has been demolished) was verified as being 2,046 cubic metres, the volume of the approved dwelling was 1,309 cubic metres and the volume of the amended proposed dwelling comes to 1,134.5 cubic metres. Under such circumstances, I still consider that the proposal would result in an increase of the openness of the Oxford Green Belt. This is even with alterations to the footprint and position of the dwelling being sought. The fact that the dwelling does not occupy the same specific part of the application site as the agricultural barns does not in my view diminish the strength of the above argument on the basis that both the existing barns and the proposed dwelling are within the same red edged area. Furthermore, I consider that moving the built form closer to the lane and further away from the more open agricultural fields would be beneficial to the openness of the area. For these reasons the impact on the openness of the Green Belt is considered to be acceptable.
- 6.15 **Access, parking and amenity space.** 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.

- 6.16 Policy TRANS5 seeks to ensure that development does not harm highway safety and provides for sufficient parking and turning areas, which is in alignment with criterion (ii) of Policy H20. Policy CD4 of the Neighbourhood Plan echoes this by requiring new residential development to provide onsite parking in line with Oxfordshire County Council standards.
- 6.17 Brook Lane leading to the application site is a narrow one that has in the past served the agricultural barns at Upper Farm and this application seeks to add a new vehicular access onto Brook Lane in addition to the approved access point off the track to the yard to the north. Comments from the Parish Council have raised objections on the basis of not only the narrow nature of the access, the increase in traffic movements and the impacts on highway safety but also with regards to the poor condition of the lane and the negative impact that previous development at the Upper Farm site has caused.
- 6.18 Access – The new vehicular access to the site has been assessed by the Highway Liaison Officer at Oxfordshire County Council. They have made no objection on the grounds of highway safety. They have highlighted that the new access is on a part of the lane where the carriageway is relatively straight in its alignment. Furthermore, the characteristics of the lane in this location mean that vehicular traffic and speeds are relatively low. They recommended conditions to ensure the new access is implemented in accordance with Highway Authority specification, that sufficient vision splays are provided and that the parking areas are implemented as on the approved plans.
- 6.19 Objections have been reiterated to the proposed development relating to the impact that construction vehicles would have on Brook Lane. I can confirm that no objection or comment was made by the Highways Officer questioning the ability for the lane to be used for the construction traffic of a single dwelling. Therefore, it is not justifiable to impose conditions about the type of construction vehicles used in the development.
- 6.20 Parking - The area of gravel to the North end of the proposed dwelling and behind the new garage would be retained on the scheme with the new garage providing 1 further spaces. In front of the garage the new access would provide an additional gravel parking area. The Highway Liaison Officer has confirmed that this would be ample and provides adequate turning provision. I am therefore of the view that this would be an acceptable level of parking provision for the proposed 4-bedroom dwelling.
- 6.21 Amenity - The proposed dwelling would be sited within a plot which would afford it a level of private amenity garden space that would be significantly in excess of the 100 square metres set out in the JDG for 3 + bedroom properties. Therefore, the development would not be cramped or an overdevelopment of the application site.

- 6.22 **Design and appearance of the dwelling and the impact on the character of the wider area.** DES1 of the SOLP requires that all new development should be of a high-quality design with DES2 ensuring that it must respond to and enhance local character. Policy CD2 of the Neighbourhood Plan also requires development to relate to the character of the immediate area and wider context within the village.
- 6.23 The proposed development would employ an uncomplicated design of a converted farm building such as the existing barn on the site. The application proposes a gable ended design of the dwelling as well as having different materials at ground (stone) and first floor (timber) levels, which gives it a modern agricultural character. The roof materials would be standing seamed zinc bringing an attractive modern addition to the material palette of the proposals that would also draw links back to the existing barn conversion (Lane House) located immediately to the north of the site. The position of the dwelling would be closer towards the lane but still set back a sufficient amount, approximately 19 metres to ensure it would not be a dominant feature when viewed from the lane.
- 6.24 The proposed garage would be attached to the northern end of the dwelling as opposed to being detached on the previous permission. It would look like an agricultural cart shed and would be constructed in brick and timber for the walls and clay tiles on the roof. It would be clearly subservient to the main dwelling through its subordinate eaves and ridge heights.
- 6.25 Whilst this is a departure from the more traditional agricultural character of the previously approved design of the dwelling it still draws strong links back to the agricultural character of the site. It should also be noted the overall roof ridge line of the proposed dwelling is lower than that previously approved.
- 6.26 A detached greenhouse and garden shed are proposed in the rear garden. These would be modest outbuildings that would not depart from what would reasonably be expected to be present in a residential context such as this. They would be acceptable additions to the site that would not harm the wider area.
- 6.27 The additional vehicular access would be a modest single width entrance that would not be an incongruous on this lane given the presence of similar access points at other residential properties along it.
- 6.28 **Impact on the setting of nearby listed buildings.** Policy ENV7 of the SOLP requires that development that would affect a listed building or the setting of a listed building must be sympathetic in terms of its siting, size, scale, height, alignment, materials and finishes and conserve, enhance or better reveal those elements which contribute to its setting.
- 6.29 The proposed changes to the design and position of the dwelling would still retain a substantial separation from the listed neighbouring dwelling to the south. This degree of separation combined with the proposed dwelling employing a design that would draw links back to the gable ended design of the

barns that have historically occupied the site would in my view ensure that is not harmful to the setting of the listed building.

- 6.30 **Impact on neighbours.** Policy DES6 of the SOLP sets out that development should demonstrate that there would not be significant adverse impacts on the amenity of neighbouring uses with respect to loss of light, dominance or visual intrusion, noise, emissions, pollution or external lighting.
- 6.31 Notwithstanding the amended position of the proposed dwelling, when compared to the agricultural barns the front and rear elevations of the dwelling would continue to face East and West respectively. This would ensure that the windows located on these elevations face into the application site with open fields beyond in the case of the rear elevation and the trees and Brook Lane beyond for the front elevation.
- 6.32 The proposed North elevation of the dwelling would be located adjacent to the parking area. It would be set in from the edge of the site a sufficient amount to ensure that it would not afford unneighbourly views towards the Field Cottage and Lane House as well as not be overbearing, oppressive or overshadow these neighbours.
- 6.33 The proposed South elevation would be situated some 30 metres away from the Northern boundary of Appletree Cottage. This level of separation is such that in my view the proposal would not have a negative impact upon the light, outlook or privacy of this neighbouring dwelling even with the addition of a south facing balcony to the dwelling. This is aided further with the significant levels of natural screening present along the boundaries.
- 6.34 **Contaminated land.** Policy ENV11 of SOLP relates to contamination and states that development proposals should be appropriate to their location and should be designed to ensure that the occupiers of a new development will not be subject to individual and/or cumulative adverse effect(s) of pollution. Proposals will need to avoid or provide details of proposed mitigation methods to protect occupiers of a new development from the adverse impact(s) of pollution.
- 6.35 The previously recommended phased contaminated land conditions are still appropriate and should be retained as part of the recommendation of approval.
- 6.36 **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.

- 6.37 The Drainage Engineer has no objection to the proposed variation of conditions. It is therefore intended to retain the original recommendation of conditions requiring the submission of a surface water drainage scheme and a foul water drainage scheme. It is therefore my opinion that subject to these conditions the proposed development would continue to not represent harm with regards to impact on drainage and flooding at the site.
- 6.38 **Impact on protected species.** Policies ENV2 and ENV3 of the SOLP relates to biodiversity and state that development that will conserve, restore and enhance biodiversity in the district will be supported. All development should provide a net gain in biodiversity where possible. As a minimum, there should be no net loss of biodiversity. All proposals should be supported by evidence to demonstrate a biodiversity net gain using a recognised biodiversity accounting metric.
- 6.39 One of the two agricultural barns on the site have been demolished with the western most barn remaining. As part of the previous application the view of the Countryside Officer was that the demolition of these modern agricultural barns would not have a harmful impact upon protected species. The demolition of the remaining barn could take place as part of implementing the previous permission and as such there is no justification in taking a different approach to the proposals as part of this application. The amended design of the dwelling and the additional vehicular access would not materially impact the situation in this regard.
- 6.40 **Carbon reduction.** Policy DES10 of the SOLP states that planning permission will only be granted for new build residential development that achieves a 9% reduction in carbon emissions compared with 2022 Building Regulations compliant base and that this reduction is to be secured through renewable energy and other low carbon technologies.
- 6.41 Due to the previous permission having been determined prior to the adoption of the current local plan, and that with the demolition of the eastern barn the development has materially commenced the above policy cannot in my view be applied in this instance.
- 6.42 **Other issues.** 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. In this case the CIL is liable for the creation of a new residential unit but the liable amount shall be offset due to the demolition of the existing floor space
- 7.0 **CONCLUSION**
- 7.1 Officers recommend that planning permission is granted as the variation of the approved plans and materials conditions for the approved dwelling on the site continues to represent a reduction of volume of built-form in the Oxford Green Belt afforded by the extant planning permission.

- 7.2 The proposed development would be of an appropriate agricultural inspired design, which would integrate well into the site, the wider landscape and not be harmful to the setting of nearby listed buildings. It would not be unneighbourly and would be afforded a generous amount of amenity space with vehicular access and parking provided for in accordance with the required standards. Therefore, notwithstanding the specific circumstances of the site, with the attached conditions the proposal is in accordance with the Development Plan.

8.0 RECOMMENDATION

8.1 Planning Permission

8.2 1 : Time Limit - Variation of Condition

2 : Approved plans *

3 : Materials as on plan

4 : Withdrawal of P.D. (Part 1 Class A) - no extensions etc

5 : Withdrawal of P.D. (Part 1 Class E) - no buildings etc

6 : Demolish existing buildings (all)

7 : New vehicular access *

8 : Vision splay dimensions *

9 : Parking & Manoeuvring Areas Retained *

10 : No Garage conversion into accommodation

11 : Surface water drainage works (details required)

12 : Foul drainage works (details required)

13 : Contaminated Land (preliminary risk assessment)

14 : Contaminated Land - Remediation Strategy

15 : Phasing of Development (Full)

8.3 Author: Will Darlison

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