

**3 The Green Barn Stoke Lyne Road Stratton Audley  
Bicester OX27 9AT****Case Officer:** Matthew Chadwick**Applicant:** Mobley Ltd**Proposal:** RETROSPECTIVE - Erection of new detached dwelling house - this application seeks to amend the original dwelling design from 16/00366/REM and Appeal APP/C3105/W/16/3154107**Ward:** Fringford And Heyfords**Councillors:** Councillor Ian Corkin, Councillor James Macnamara and Councillor Barry Wood**Reason for Referral:** Called in by Councillor Corkin on the grounds of public interest**Expiry Date:** 25 January 2021**Committee Date:** 11 February 2021**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located on the south-western side of Stoke Lyne Road on the edge of the village of Stratton Audley. The site previously consisted of a large barrel-vaulted steel-clad barn with a mono pitched single storey projection to the rear. However, this has been demolished since the granting of numerous consents for residential development on the site. Permission has been granted for four dwellings on the site, which are under construction, including the dwelling to which this application relates.

**2. CONSTRAINTS**

2.1. There is a public footpath running to the north west of the site (ref: 371/5/10). The Stratton Audley Conservation Area boundary also exists immediately to the north and east of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. Retrospective planning permission is sought for the erection of a detached dwelling house on the site. The dwelling would be of a similar overall form and scale to that approved under 15/00640/OUT and 16/00366/REM, with the main changes being to the fenestration of the dwelling. Externally, the changes from the previously approved scheme can be summarised as follows:

- On the southwest elevation a porch has been added, along with a window at first floor level and three dormers in the roofslope and the ridge height of the single storey element has been reduced.
- On the northwest elevation, a window has been removed at first floor level.
- On the northeast elevation (facing the road), a window has been added at ground floor level and a window has been added at first floor level.

Alterations are proposed to the approved windows and a window serving the utility room has been removed.

- On the southeast elevation, a window has been added to serve the utility room and a window has been added to serve the dining room, with rooflights above this. At first floor level two windows have been added, which would serve a bedroom, and en-suite and a second floor a window has been added to serve a bedroom.

3.2. Internally, a second floor has been added, which would accommodate a bedroom and a study in the roof space above the double garage. A gap between the garage of the dwelling and the garage for plot 2b would be infilled with a 1.8m stone boundary wall.

3.3. Planning consent is required for the alterations because the dwelling is being constructed not in accord with the approved plans. Permitted development rights have not yet taken effect because the dwelling is not completed; any in any event some of the changes would not constitute permitted development.

#### 4. RELEVANT PLANNING HISTORY

4.1. The following planning history is considered relevant to the current proposal:

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
00/00793/F	Conversion of existing barn to residential accommodation as one house	Application Refused
01/00893/F	Demolition of existing barn and erection of two new 4 bed dwellings	Application Refused
09/01118/F	Demolition of agricultural barn and erection of two pairs of semi-detached houses.	Application Refused
14/01184/PAMB	Proposed conversion of agricultural building into 3 no. dwellinghouses	Application Withdrawn
14/01583/PAMB	Proposed conversion of agricultural building into 3 no. dwellinghouses	Prior approval granted
14/02042/F	Convert existing agricultural building into three dwelling houses and associated building works. Change of use of agricultural land in to residential gardens and amenity space.	Application Permitted
15/00640/OUT	OUTLINE - Demolition of existing dutch barn and erection of three dwellings and formation of new access	Application Permitted
15/02321/OUT	Demolition of existing dutch barn and erection of 4 No dwellings and formation of	Application Refused

new access; siting, layout and massing  
(Resubmission of 15/00640/OUT)

16/00366/REM	Reserved matters on application 15/00640/OUT	Application Refused
	Layout, scale, appearance and access	

4.2. Application 16/00366/REM was refused for the following reason:

*The proposed development, by virtue of the scale and prominence of the main part of the dwelling on Plot 3 and the siting, layout, form and scale of the dwelling on Plot 1, would fail to preserve or enhance the character and appearance of the Stratton Audley Conservation Area and would cause harm to the rural character, quality and appearance of the area. There are not considered to be any public benefits which would outweigh this harm. The proposed development would therefore be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1; Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework on design and heritage matters.*

4.3. This decision was appealed and was allowed by the Planning Inspectorate (APP/C3105/W/16/3154107).

## 5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to the dwelling currently proposed. A pre-application enquiry relating to the whole site was submitted in 2015 (15/00283/PREAPP) and this related to the principle of development of the wider site rather than the changes proposed here.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, 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 **28 January 2021**, although comments received after this date and before finalising this report have also been taken into account.

6.2. We have received letters of objection from 4 households. The comments raised in objection from third parties are summarised as follows:

- The proposed fenestration would cause harm to the character and appearance of the conservation area.
- The proposals would result in a loss of privacy to neighbouring dwellings.
- The building would be in close proximity to the neighbouring building.
- The developer has built elements without consent.

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

- 7.1. 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

- 7.2. STRATTON AUDLEY PARISH COUNCIL: **Objects**, on the grounds that the fenestration would cause harm to the character and appearance of the area and would result in overlooking of the adjacent property. The alterations to the side access of the dwelling could cause highway safety issues.

#### CONSULTEES

- 7.3. CDC ARBORICULTURE: No comments received at the time of writing this report.
- 7.4. OCC ARCHAEOLOGY: **No objections**.
- 7.5. CDC BUILDING CONTROL: **No objections**; comments that Part M access requirements will apply in terms of level access from the garage to the principal entrance. Also note that the ground floor Utility window may need to be fire-resistant fixed shut if the distance to the boundary is less than 1 metre.
- 7.6. CDC ENVIRONMENTAL HEALTH: **No objections**.
- 7.7. OCC HIGHWAYS: No comments received at the time of writing this report.
- 7.8. CDC LAND DRAINAGE: **No objections**.

### **8. RELEVANT PLANNING POLICY AND GUIDANCE**

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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
- ESD1: Mitigating and Adapting to Climate Change
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design control

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

## 9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Highway safety

### Principle of Development

- 9.2. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Stratton Audley is a Category C settlement, which means that it is one of the least sustainable rural settlements in the district. Within the limits of Stratton Audley, only infilling and conversions are considered acceptable in principle.
- 9.3. Saved Policy H18 of the Cherwell Local Plan 1996 states that planning permission will only be granted for the construction of new dwellings beyond the built-up limits when it is essential for agriculture or other existing undertakings.
- 9.4. The application site has an extensive planning history as set out earlier in this report. The development as proposed would fail to comply with Policy Villages 1, as the proposals do not constitute infilling or conversion of an existing building.
- 9.5. That said, planning consent for four dwellings exists across the wider site and applications 15/00640/OUT and 16/00366/REM have been lawfully implemented with conditions 2, 3 and 5 discharged. Development of the dwelling in question has been commenced and therefore there is consent for a dwelling on this site. Whilst this application proposes a new dwelling which is not supported by policy, significant weight has to be given to the fallback position that exists and the extant permission for a dwelling on this plot. There has been no material change in circumstances since the previous grants of planning consent on this site.
- 9.6. In addition, the nature of the changes proposed between this new dwelling and that previous consented are not significant. Given this planning history, the broad principle of the proposed development is considered to be acceptable, subject to the other material considerations discussed below.

### Design, impact on the character of the area and heritage assets

#### *Legislative and policy context*

- 9.7. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

- 9.8. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.9. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards, and should respect the historic environment including Conservation Areas and listed buildings.
- 9.10. Paragraph 127 of the NPPF states that planning decisions should ensure that developments
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

#### *Assessment*

- 9.11. The scope of the design changes proposed in this application from that approved under 16/00366/REM are set out in the introduction to this report. Many of these changes face inwards into the site and have little or no impact on the character and appearance of the area.
- 9.12. Concerns have been raised by third parties during the consultation process regarding the impact of the new windows on the elevations facing the public domain.
- 9.13. More windows are proposed on the northeast elevation facing the road than were previously approved. Three windows are proposed at ground floor level and three windows at first floor level. This would result in a more uniform appearance to the dwelling, as there is now more rhythm with regards to the location of the fenestration, but officers consider that this would not cause harm to the character and appearance of the area.
- 9.14. On the approved scheme, there were no windows on the southeast elevation whereas in the proposed scheme there are five windows and two rooflights on this elevation. These changes would result in the building having more of a domestic appearance. However, the proposal is for a dwelling within a residential context, and in addition the introduction of these windows would result in the building having more of an active frontage onto the public domain. This element is therefore considered acceptable in visual terms.
- 9.15. The development proposes to infill the existing gap between the garage for Plot 3 and the garage for Plot 2b with a stone wall 1.8m in height. Any permission given would need to be subject of a condition to require that this element of the scheme is constructed externally in stonework to match the sample panel previously approved for the dwelling on the site in order to achieve a well-designed form of development and to safeguard the character and appearance of the area.

- 9.16. Three dormer windows are proposed within the southwest roofslope. These would face into the site are not considered to cause harm to the character and appearance of the area. The ridge height for the dwelling would be the same as the dwelling approved under 16/00366/REM.
- 9.17. For these reasons, it is considered that the development would not cause harm to the character and appearance of the area or the significance of the Stratton Audley Conservation Area through change to its setting. The form and scale of the dwelling would not change from the previously approved scheme and the main visual alterations relate to the introduction of new windows. Whilst the introduction of windows on the northeast and southeast elevations would result in a visual difference from the previously approved scheme, it is not considered that this would result in any material harm to heritage assets.

#### *Conclusion*

- 9.18. The development would not cause harm to the character and appearance of the area or the significance of the Stratton Audley Conservation Area through change to its setting. The proposal would therefore comply with Policy ESD15 of the CLP 2015, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

#### Residential amenity

##### *Policy Context*

- 9.19. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.20. The Cherwell Residential Design Guide (2017) states that a minimum distance of 22m back to back, between properties must be maintained and a minimum of 14m distance is required from rear elevation to two storey side gable.

##### *Assessment*

- 9.21. Concerns have been raised by third parties regarding the impact that the development would have on neighbours in terms of overlooking.
- 9.22. There would be ground and first floor windows in the elevation of plot 3 facing 2 Cherry Close to the north east of the site. This dwelling has a number of windows in the rear elevation facing towards the application site. The Council would normally expect a back to back distance of 22 metres to be retained between properties to ensure adequate levels of privacy are provided.
- 9.23. However, in this case this is not a traditional back to back relationship as the properties are separated by a road and it is the front elevation of plot 3 that faces towards this neighbour. The presence of the road and footpath reduces the level of privacy and tranquillity to the rear of 2 Cherry Close.
- 9.24. The distance maintained between the first-floor windows on plot 3 and the rear elevation of 2 Cherry Close would be just in excess of 17 metres. This relationship would not be ideal as there would be some overlooking between Plot 3 and the rear elevation of 2 Cherry Close. However, given the unconventional relationship between these properties, the presence of the road and the relatively small size of the bedroom window on plot 3 facing 2 Cherry Close, it is considered on balance

that the proposal would not result in an unacceptable loss of privacy or overlooking to 2 Cherry Close which would justify refusal. Furthermore, this is the same relationship as was approved under 16/00366/REM and the changes proposed in the current application do not make the impact any more harmful.

- 9.25. Concerns have been raised in the consultation period regarding the impact that the proposed windows would have on Mattingley Barn to the southeast of the site. Mattingley Barn openings facing towards the site and be approximately 5m in distance from the closest part of Plot 3. As noted above, the previously approved dwelling had no openings on the southeast elevation.
- 9.26. Respondents have commented that Mattingley Barn has been previously used for storage and engineering purposes. From looking at the planning history of the building, there has been no industrial use approved at the site. The windows that would have the most impact would serve the utility room at ground floor, those that would serve the en-suite and bedroom 1 at first floor level and the window serving bedroom 3 at second-floor level.
- 9.27. In the approved scheme the utility room was served by a window on the northeast elevation. The proposed window would be within 1m of the boundary of the site. The neighbour has stated that they would be able to construct a fence on their boundary in close proximity to this building.
- 9.28. The first-floor windows would serve an en-suite and a secondary window to bedroom 1 and the window at second floor would be a secondary window to bedroom 3. These windows would look towards Mattingley Barn and would either not be the primary windows serving the rooms or would be in an en-suite, in which windows would often be obscurely glazed for privacy reasons.
- 9.29. A condition removing permitted development rights of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 was included on the wider site. Given that the dwelling could be extended or altered in a way that the amenities of neighbours could be negatively affected, this is a reasonable and necessary condition to impose.
- 9.30. Given these issues, the rooms that these windows serve and the proximity of the window to the neighbour, it is considered reasonable to impose a condition that the aforementioned windows should be restricted opening and obscurely glazed. Subject to this condition and given the approved uses of the two buildings, it is considered that this relationship would not cause harm to the occupiers of either building.

#### *Conclusion*

- 9.31. It is considered that subject to conditions the development would not cause harm to the amenities of neighbours and that the proposals would comply with Policy ESD15 of the CLP2015 and Government guidance contained within the NPPF.

#### Highway safety

- 9.32. The local Highway Authority has not commented on the application. The proposed dwelling would not have an extra bedroom than the previously approved scheme, going from three bedrooms to four. The level of proposed parking remains the same, with a double garage and sufficient parking and turning area. It is therefore considered that the development would not cause harm to the safety of the local highway network.



### Other matters

- 9.33. Policy ESD3 of the CLP2015 states that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. A condition shall be included in this regard.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The principle of development for residential development on the site is considered to be acceptable given the planning history on the site and the implementation of 15/00640/OUT and 16/00366/REM. The development would not cause harm to the character and appearance of the area or the setting of the conservation area. Subject to conditions, the development would not cause harm to the amenities of neighbours or the safety of the local highway network.

## **11. RECOMMENDATION**

### **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW**

#### CONDITIONS

##### **Compliance with Plans**

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan (PU1905/19) and Plot 3 Proposals (PU1905/24).

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. The external walls of the development that are to be constructed from natural stone shall be constructed in accordance with the stone sample panel approved under 19/00074/DISC.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. The roofs of the development that are to shall be finished in accordance with the slate sample approved under 19/00074/DISC.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Within one month of the date of this consent, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing

by the Local Planning Authority. The doors and windows shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the first occupation of any dwelling hereby approved, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - i) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas.
  - ii) details of the hard surface areas including pavements, pedestrian areas, reduce-dig areas, crossing points and steps.

The landscaping works shall be carried out in accordance with the approved details and the hard landscaping works shall be carried out before any part of the development is first occupied and shall be 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 Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. 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 Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the first occupation of any dwelling hereby permitted, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure, in respect of the dwellings they are intended to screen, shall be erected in accordance with the approved details prior to the first occupation of those dwellings and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to any works to provide the access, parking and turning area of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the access between the land and the highway, and the turning area and parking spaces within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the access, turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

9. Prior to the first occupation of the development hereby approved, the ground floor window in the southeast elevation of the utility room, the first floor windows in the southeast elevation of bedroom 1 and the associated en-suite and the second floor window of bedroom 3 in the southeast elevation shall be restricted opening to 15 degrees and shall be fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. 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 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 in order to safeguard the amenities of the occupants of the adjoining buildings in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.