

**Site Address: Manor Farm Buildings,  
Mollington Road, Claydon**

**14/00107/F**

**Ward:** Cropredy

**District Councillor:** Ken Atack

**Case Officer:** Tracey Morrissey

**Recommendation:** Approval

**Applicant:** Mr and Mrs Ulyett

**Application Description:** Extension to residential curtilage

**Committee Referral:** Member Request

**Committee Date:** 10<sup>th</sup> July 2014

**1. Site Description and Proposed Development**

- 1.1 The application site is a large piece of land containing a single modern portal-frame agricultural building. The existing barn is approximately 26m x 22m in size. The application site is situated on Mollington Road just outside the village of Claydon. A public footpath (FP 170/5) runs along the driveway to the barn to the southern aspect of the site. A Grade II listed building (Manor Farm) is located in close proximity to the site. Pipistrelle bats are in the locality. The site is within an archaeological area and an AHLV. There are no other notable site constraints.
- 1.2 A lawful development certificate was granted under ref.no.10/01095/CLUE, for a small proportion of the barn to be used for residential purposes on the basis that it had been used for this purpose for more than 4 years and was therefore exempt from enforcement action.
- 1.3 The application has been amended from the original submission, which sought to extend the lawful 2 bedroom residential unit to create a larger 3/4 bedroom property by utilising just over a third of the existing barn and to provide it with a residential curtilage. Following a meeting with the case officer, the applicants have changed the proposal to now only seek consent to extend the residential curtilage of the lawful residential unit. For clarification the applicants are the daughter and son-in-law of Mr & Mrs Jeffries who are still living in the lawful property until their own 'temporary' dwelling at Point to Point Farm is ready to move into, which is imminently. Once the Jeffries move out the applicants will move into the Manor Farm at Claydon.

**2. Application Publicity**

- 2.1 The application was initially advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 13th March 2014. The amended scheme has been advertised in the same way and the final date for comment was the 18<sup>th</sup> June 2014.

4 letters were initially received. The following issues were raised:

- The agricultural barn is appropriate within its rural context.
- The alterations including the insertion of windows will create a building out of context with the rural character of the area and adjacent properties.
- The certificate of lawfulness did not show any windows.
- Proposed dwelling would dominate historic entrance to the village
- Overlooking would be caused to the garden of Claydon House.
- Similar proposals have been consistently resisted on this site for various reasons.
- Contrary to previous appeal decisions
- Contrary to emerging Local Plan policies – ESD16 and Policy Villages 1
- Beyond the built up limits and natural boundaries of the village

- The certificate of lawfulness should not have been granted
- The certificate of lawfulness was contained to the red line and for the applicant only
- Set an undesirable precedent for similar development
- Proposal would widen the village envelope
- Detrimental to rural character of the area
- Planning changes should be communicated more widely
- Intrusion into the countryside
- There has been activity since the 2013 application including landscaping around the site.

In response to the amended scheme 7 letters have been received from 4 interested parties. The following additional issues over those set out above were raised:

- Strongly disagree with the view that a change of use would not harm the open countryside because all parts are already in existence.
- The existing situation is the land surrounds an agricultural barn
- The area is becoming more urbanised which will be more prominent and intrusive.
- Proposed modifications are out of keeping with other buildings in the area
- Further plan to alter the barn if this proposal were successful would not be acceptable as the external alterations would still impact upon the surrounding area
- This conflicts with previous planning decisions
- Current application is not infill and should not be approved in Claydon
- Concerned about the implications in the agent's resubmission letter
- Proposal will affect a grade II listed building
- Building is within an area of high landscape value
- If approved, conditions should be imposed to control the landscaping to ensure neighbouring properties are protected
- Hedgerow planting that has recently occurred has included prohibited species and these should be removed.
- Soil levels have changed and this could have implications on the surroundings
- Proposal is a significant material change to the building, not an extension
- The precise line of the village envelope should be considered in detail to ensure it is accurate.
- The Council should not be allowing the applicant to further expand this use that was gained through deliberate concealment
- The Council should not go back on its previous decisions
- No landscaping plans have been approved and trees have been planted close to the boundary with neighbouring properties which could result in future issues
- The village has many heritage assets and the proposal will not compliment the historic entrance to the village

### **3. Consultations**

3.1 **Claydon with Clattercote Parish Council:** Objects. A summary of comments are below:

- Outside the built up limits of the village
- Set an undesirable precedent for similar development
- Proposed development is not infill
- Appearance of existing building is agricultural in nature and therefore appropriate for the location
- The area is designated as an Area of High Landscape Value; the proposal would be contrary to the preservation of this asset

- The Certificate of Lawful Use was gained by default and should not be seen as setting a precedent for extensive development outside the building line of the village
- The D&A statement advises that the applicant wishes to extend the existing residential property with the building. The Parish Council believes this was always the applicant's intention in concealing a dwelling in the barn.
- Long planning history of failed attempts to obtain planning permission on this site

In response to the amended scheme, Claydon with Clattercote Parish Council make the following additional comments (some of those made are the same as above):

- The development would not complement or enhance the character of its context through sensitive siting, layout or high quality design which is required by policy ESD16.
- Allowing this development would add substance to the method of circumventing laid down planning procedures
- The Certificate of Lawful Use was limited to Mr and Mrs Jeffries and applies only to part of the site contained within the red line of the application.
- Concerned in relation to comments made by the applicant's agent which implies that changing the description of the development would gain support from Officers.

3.2 In response to the comments from the Parish Council and Local residents, the applicant has submitted a number of letters responding to the comments raised. The following is a summary of their points made within each of their letters:

- Reference made to disputes with nearby neighbours and concern relating to comments made
- The certificate of lawfulness has no limitations
- Comments made with regard to changes made to the elevations facing towards nearby neighbours is incorrect
- The external dimensions of the building will not be changing
- The building and house already exist so there would be no change to the boundary and would not extend into the countryside
- Given the circumstances and planning history this would not set a precedent
- The building remains agricultural in character and this will not change with the proposed alterations
- The certificate of lawfulness was properly obtained
- An internal side extension is the only proposal (although not part of the amended scheme)
- The landscape does not lie within a conservation area
- The certificate of lawfulness did not relate to the agricultural requirements
- The windows are required for light and would not be widely seen
- The proposal has been arrived at through consideration of local and national policy
- The site cannot be expected to remain unchanged
- Needs of the family should outweigh any reasons to consider refusing the application
- The property is properly connected to the public sewerage system
- The trees that have recently been planted are appropriately positioned.
- Soil levels are lower than they have been historically

### **Cherwell District Council Consultees**

3.3 **Rights of Way Officer:** No comments received but the response to 13/01506/F was one of no objections following submission of a satisfactory Rights of Way Statement.

A similar Rights of Way Statement has been sought in respect to this current

application.

## **Oxfordshire County Council Consultees**

3.4 **Highways Liaison Officer:** Officers are advised to refer to previous recommendations – the response was one of no objections subject to conditions to 13/01506/F

3.5 **Archaeologist:** The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. There are therefore no archaeological constraints to the scheme.

Response received to the amended plans advising that the proposed amendments do not alter the comments made above.

## **4. Relevant National and Local Policy and Guidance**

### 4.1 Development Plan Policy

#### Adopted Cherwell Local Plan (Saved Policies)

H14:	Category 2 Settlements
H18:	New dwellings in the countryside
C13:	Area of High Landscape Value
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development

### 4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

The Submission Local Plan (January 2014) has now been through public consultation and was submitted for examination in January 2014, although this plan does not have Development Plan status, it is a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

Villages 1: Village Categorisation

ESD13: Local landscape protection and enhancement

ESD16: The character of the built and historic environment

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of the development
- Design, Impact on Visual Amenity, Character of the countryside and Area of High Landscape Value
- Neighbouring Amenity
- Highway safety
- Rights of Way
- Impact on Heritage Assets

## 5.2 Relevant Planning History

**72/00030/B:** Erection of a single storey dwelling (Refused)

**73/00799/B:** Erection and extension of R.C portal framed agricultural building (Permitted)

**88/00037/N:** Demolition of farm buildings, clearance of concrete yard area and materials stored and replacement with residential development (Refused) Appeal dismissed

**95/01345/OUT:** Outline. Construction of one dwelling. Clearance of cattle yard. (Refused)

**02/02667/F:** Change of Use of barn to office and storage. (Withdrawn)

**03/01144/F:** Part Change of Use of agricultural building to chiropractic clinic and storage for antiques furniture (Refused)

**05/01829/F:** Cladding to existing agricultural building. Part retrospective. (Permitted)

**10/01095/CLUE:** Certificate of Lawful Use Existing. To use site as private residence. (Certificate Issued)

**13/01506/F:** Demolition of the majority of the barn and extension to dwelling. Creation of a residential curtilage. Refused for the following reasons:

1. The proposed dwelling constitutes residential development beyond the built up limits of the settlement for which no justification for essential need has been submitted. In its proposed location the dwelling would detract from the open and spacious, rural character of the area. As such the proposal is considered to be contrary to government guidance contained within the National Planning Policy Framework and Policy H18 of the adopted Cherwell Local Plan.
2. The proposed dwelling and attached garage, by virtue of their scale, design and siting would cause harm to visual amenity, would not be in keeping with the character of the area and would therefore neither conserve nor enhance the environment or the rural character of the area. As such the proposal would cause harm to visual amenity and the designated Area of High Landscape Value, contrary to government guidance contained within the National Planning Policy Framework and Policies C13 and C28 of the adopted Cherwell Local Plan.

The planning history shows that the Local Planning Authority has repeatedly resisted proposal for residential dwellings and proposals for Changes of Use to non-agricultural uses. Unfortunately the 10/01095/CLUE application has lawfully granted a residential unit on the site, which the Council has no power to enforce against.

### **Principle of the development**

- 5.3 A Certificate of Lawful Use Existing was issued in 2010 as the occupiers of the site provided relevant information to show that a residential use had been occurring on the site for a period of more than four years. The certificate was issued with a site plan which restricted the certified use to a small portion of the barn where the residential use was occurring. No associated residential curtilage or parking area was included in the approved red line of the site.

- 5.4 The lawful residential use is limited to a small area of the barn therefore any further lawful use of the land for residential purposes would be subject to a further planning permission. Hence this current application.
- 5.5 It is your officer's opinion that the site falls beyond the built up limits of the village of Claydon and forms part of the open countryside. This same view has been taken by previous officers and was supported by a planning inspector when an appeal against application 88/00037/N (T/APP/C3105/A/88092459/P4) was dismissed, the Inspector noted in the deliberations that the boundary of Claydon House formed a definite boundary to the edge of the village, whereas this site would be prominent and not a logical or natural extension to the village, but rather "an intrusion into the open countryside which would harm the character of the area and be contrary to aims of policy" and that this harm was not justified by the removal of the large buildings on site which were agricultural in character and hence appropriate to a rural location.
- 5.6 Policy H18 of the ACLP (Policy H19 of the NSCLP) requires that new dwellings beyond the built up limits of settlements are only approved in the event of them being essential for agriculture or other existing undertakings.
- 5.7 Historically the site has been used for agricultural purposes, however in the last 10 years or so, this has not completely been the case. The building itself has *not* been used solely for agricultural purposes., In that time it has (and currently still does) provide stabling for several ponies along with associated hay, straw and foodstuffs, trailers, cars/vehicles and domestic furniture, and not least contains the lawful residential unit. There was and continues to be some agricultural farm machinery/equipment storage. The land surrounding the barn was used parking tractors and vehicles and non-agricultural relates vehicles. The barn has therefore been in a mixed use for some years.
- 5.8 Whilst Policy H18 of the adopted Cherwell Local Plan relates to new dwellings in the countryside, there is no new dwelling being established here, only a residential curtilage to be associated with an existing dwelling. Therefore no essential justification need be sought.
- 5.9 Clearly under normal circumstances, the erection of a dwelling on land outside the settlement would result in inappropriate encroachment into the open countryside, however this is not normal circumstances; a lawful dwelling exists and therefore Policy H18 cannot be applied to resist the principle of the residential development. The amended application seeks to extend only the residential curtilage of the lawful residential unit, it is therefore on that basis that this application must be assessed and the harm that this would cause on the open countryside.

#### **Harm to Open Countryside and Area of High Landscape Value**

- 5.10 As regards landscape conservation, Policy C7 of the ACLP seeks to prevent development that would cause demonstrable harm to the topography and character of the landscape. Policy C7 is consistent with the landscape protection policy of the NPPF. A similar function is performed by the landscape policies contained within the NSCLP and the SLP (Policies EN34 and ESD13 respectively).
- 5.11 Policy ESD13 of the SLP sets out that development will be expected to respect and enhance local landscape character and that proposals will not be permitted if they would cause undue visual intrusion into the open countryside or be inconsistent with local character
- 5.12 The site lies beyond the built-up limits of the village in an area of open countryside

and the Cherwell Valley Area of High Landscape Value, protected under saved Policy C13 of the adopted Cherwell Local Plan. Careful control of the scale and type of development is required to protect the character of these designated areas. The landscape significance of the site is carried forward in the SLP through a character-based approach under Policy ESD13, which seeks to conserve and enhance the distinctive and highly valued local character across the district.

- 5.13 It is clear from the original AHLV designation that the quality of the countryside has been found to merit protection over and above ordinary undesignated open countryside. Whilst Policy H18 of the ACLP restricts housing in the open countryside it also serves to protect the countryside outside settlements and alongside Policies C7 and C8 of the ACLP further seek to protect the landscape, preventing sporadic development that would cause harm to the topography and character. The NPPF also advises that the open countryside should be protected for its own sake.
- 5.14 The agricultural barn exists, the residential unit inside the barn building exists and parking associated with the agricultural use and residential use exists inside and outside of the building. It is clear that for some year's further land other than that containing the dwelling has been used for further ancillary residential purposes, however what is not clear is whether this has been for solely ancillary residential purposes as there has been evidence of agricultural activity also taking place on the land.
- 5.15 The local residents have advised that some ornamental and non-native tree and shrub planting has taken place around the boundaries of the site and this was evident at the case officer's site visit. Unfortunately there is no control over anything planted in the ground and therefore whilst these inappropriate species have been planted there is little that the Council can do to prevent the applicants from continuing. Clearly by planting inappropriate species the applicant is 'domesticating' the appearance of the land which runs contrary to the landscape protection policies, but tree and shrub planting does not constitute development that requires planning permission.
- 5.16 As the application stands the proposal seeks to formally secure a residential curtilage for the lawful dwelling. It is appreciated that there is a long history of attempts to secure a residential property on this site and that the Council's has sought to resist such development, however, the fact of the matter is that in 2010 the applicant's parents were successful in securing such a lawful residence on the land. Would it therefore be unreasonable to not allow the property to benefit from a lawful garden/amenity area? Or would the provision of a curtilage exacerbate any harm already caused by the creation of a residential use outside the settlement? These matters need to be considered careful in the planning balance.
- 5.17 In order to assess the balancing exercise these are the issues that surround the proposal:
- A residential unit is already established on the site
  - The barn exists and already has an impact on the open countryside but is considered to be an appropriate building for the rural landscape (as noted in the 1988 appeal)
  - The barn serves a multi-purpose, not least the stabling for several ponies, which may or may not remain there when the Jeffries move out of Manor Farm. There is however no other alternative stabling for them elsewhere on the Point to Point farmland as all the buildings there are used for conditional agricultural purposes in accordance with the needs assessments undertaken for the holding.
  - Parking for the agricultural use and residential use has existed for some years

on the areas of hardstanding around the barn.

- Should the barn remain in place, with the exception of the landscaping that the applicants have undertaken (which could be conditioned for removal should Members be minded to approve this application), there would be no change in character or appearance of the open countryside, as the majority of the curtilage is contained within the barn building.
- Extensions to the lawful dwelling or any other building/structures or domestic paraphernalia would require planning permission through the imposition of a restrictive condition.
- There is no impact on the public right of way
- From the original submission it is clear that the applicant wishes to expand the amount of living accommodation on the site, any subsequent application for extensions to or a replacement dwelling would be subject to a further planning permission, which would be assessed against the relevant development plan policies.
- If the barn is removed, the creation of a residential curtilage could exacerbate any harm to the open countryside that already exists.
- It would not set a precedent as each site is considered on its own merits

5.18 In undertaking the planning balance it is considered that whilst there is the potential for further harms on the character and appearance of the open countryside contrary to the landscape protection policies and the NPPF, the situation would most likely remain as it is with no further harms arising. Clearly any further consideration of the extension or replacement of the existing dwelling would need to be assessed against the relevant development plan policies, but this is not before the Council at this time.

5.19 In your officer's opinion the proposal is a finely balance case considered to be acceptable and would not run contrary to countryside protection policies C7, C8 or H18 of the ACLP or ESD13 of the SLP.

### **Neighbouring Amenity**

5.20 When considering the impact of the proposal on neighbouring amenity, it should be noted that because the existing residential unit is contained within the barn, there are only two existing external windows on the ground floor. The use of the land as a residential curtilage would not in your officer's opinion cause harm to the amenities of the neighbouring properties.

5.21 The comments made by neighbours are duly noted and in respect to non-native and invasive tree/shrub planting, this would be subject to approval of a landscaping scheme, should the application be approved.

### **Highway Safety**

5.22 The proposal includes adequate provision for on-site car parking in relation to the size of the proposed property. An existing vehicular access to the site would be used to serve the dwelling. The Local Highway Authority has raised no objections to the proposal in relation to highway safety and conditions have been recommended. The proposed development would not have a detrimental impact on highway safety and complies with government guidance contained within the National Planning Policy Statement.

### **Rights of Way**

5.23 The Council's Rights of Way Officer initially raised concerns regarding the impact of the proposal on the public footpath that crosses the site. The applicant has submitted



a Rights of Way Statement that overcomes these concerns.

### **Impact on heritage Assets**

- 5.24 It is considered that the proposal does not cause harm to the significance of any heritage asset as there will be no physical change in appearance of the land. Any further development on the land will require a separate planning permission therefore the proposal accords with the government guidance contained within the NPPF.

### **Engagement**

- 5.25 In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicants and agent in a positive and proactive way, as discussions have been undertaken in respect to the principle of the development as originally submitted with amendments being further considered in accordance with relevant development plan policies.

## **6. Recommendation**

### **Approval subject to the following conditions**

1. That notwithstanding the planting that has taken place (which may or may not be appropriate for this rural location) within 1 month of this decision, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
  - (a) details of the recent tree/shrub planting and proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Reason - In the interests of the visual amenities of the rural area, to ensure the creation of a pleasant environment for the development and to comply with Policies C7 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

2. 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 date of this decision. 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 rural area, to ensure the creation of a pleasant environment for the development and to comply with Policies C7 and C28 of the adopted Cherwell Local Plan and Government

guidance contained within the National Planning Policy Framework.

3. Notwithstanding the existing timber shed on the site and the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, the existing dwelling subject to 10/01095/CLUE shall not be extended, nor shall any structures be erected within the curtilage hereby approved without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over any development of the site in order to safeguard the visual amenities of the rural area in accordance with Polices C7 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. Except where otherwise stipulated by condition, the application shall strictly accordance with the amended site location plan 2286 received 28.05.14 and the permission does not benefit the land outlined in blue.

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

#### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicants and agent in a positive and proactive way, as discussions have been undertaken in respect to the principle of the development as originally submitted with amendments being further considered in accordance with relevant development plan policies.