

Case Officer: Gemma Magnuson **Ward(s):** Deddington

Applicant: Cadmonkies – Mr D Berlouis

Ward Member(s): Cllr Bryn Williams
Cllr Hugo Brown
Cllr Mike Kerford-Byrnes

Proposal: Alterations and erection of car port

Committee Date: 04.08.2016 **Recommendation:** Approve

Referred to Planning Committee because previous applications have also been determined by the Committee

1. Application Site and Locality

- 1.1 Orchard Way is a detached one and a half storey building situated central to the village of Somerton. The building sits behind link-terraced properties that front onto Heyford Road, and to the front of properties along The Paddock; a shared access track taken from Heyford Road that is also a Public Footpath (ref: FP/349/10). The access to the site is within the Conservation Area, although the building itself is not in the Conservation Area. The building is not listed and the site does not form part of the setting of any listed buildings. The land may be contaminated by naturally occurring Arsenic. The site is of medium archaeological interest. The Common Swift and Brown Long-eared Bat, Protected and Notable Species, have been identified in close proximity to the site, and the Ardley Cutting and Quarry and Bestmoor SSSI's are within 2km.
- 1.2 The building was originally constructed as a detached double garage, then home office, serving Somerfields, a property fronting onto Heyford Road. The home office gained retrospective planning permission on 16 February 2007 under reference 06/02348/F that included the following condition:
- 1.3 *The building hereby approved for conversion shall be used for purposes ancillary to the residential use of "Somerfields", and/or to conduct office activities related to the business of the applicant and his wife only, namely office uses that support the operation of an after school instruction academy operated elsewhere and for no other use whatsoever and no other persons shall be employed therein.*
- 1.4 Planning permission for the independent use of the building as a self-contained dwelling was granted at Appeal on 12 June 2015 under reference 14/00067/F, subject to pre-commencement conditions that have not yet been discharged. The permitted development rights for extensions to the dwelling, and the erection of outbuildings, were also removed.
- 1.5 Officers are of the opinion that the use of the building as a self-contained dwelling is not authorised, although the relevant permission does not expire until 12 June 2018, and therefore could still be implemented.

2. Description of Proposed Development

- 2.1 The proposed development would involve the erection of a two bay car port within the curtilage of the dwelling approved as part of 14/00067/F that, as explained above, remains unimplemented at the time of writing. Construction materials would consist of a slate roof and timber walls. The footprint of the car port would be 5.9 metres x 8.1 metres. The height of the structure to the highest part of the centrally pitched roof would be 4.5 metres.
- 2.2 Further clarification on the end user for the car port was sought from the Agent on 07 July 2016 and the following response was received on 12 July 2016:
- 2.3 *The application is for a reduced access drive and the erection of a Carport to house the existing vehicles. I can confirm that there will be no additional traffic or change in the daily movement. Given that there is no change in circumstances and no additional risk to the safety on site, we hope that the Highways would support the application. The existing drive and parking arrangement penetrates deep into the site, the revised parking will allow for the significant reduction in hard landscaping. The vehicles will be hidden away from sight behind the existing adjacent Garage. We acknowledge that there are conditions for the access improvements associated with Planning Approval 14/00067/F and these shall be implemented as and when that development proceeds.*

3. Relevant Planning History

The site has been the subject of lengthy planning history, summarised below:

- 3.1 96/01695/F – Two storey rear extension and extension of garden and new double garage – granted.

NB. The garage was not constructed in accordance with the approved plans.

- 3.2 99/01840/F – Erection of a double detached garage and change of use of adjoining land to form new access from garage to private access drive (Retrospective) – granted.

The application sought to regularise the works undertaken following approval of 96/01695/F.

The application was approved subject to conditions, including condition 5 that removed the permitted development rights for new openings and condition 8 that required the garage to remain ancillary to Somerfields.

- 3.3 02/00497/F – Removal of Condition 8 on 99/01840/F to allow use of garage not in conjunction with or ancillary to 'Somerfields' – refused, on the following grounds:

In the absence of any further information regarding the future use of the garage independently of the property at "Somerfields" the proposed removal of condition 8 of 99/01840/F would be likely to lead to additional traffic generation using a substandard access which would be detrimental to highway safety and which would have an adverse effect on the residential amenities of neighbouring residents contrary to Policies C31 and TR2 of the adopted Cherwell Local Plan.

The access serving this garage is substandard in vision and geometric terms. Traffic generated as a product of the proposal will result in a detriment to the safety of other road users.

No Appeal was submitted.

- 3.4 06/02348/F – Non-Compliance with condition 5 of 99/01840/F - To change the use from double garage to study, store and loft and insert windows and door (RETROSPECTIVE) with pitched roof over utility room – granted.

The application was approved subject to conditions, including condition 1 that restricted the use of the outbuilding as follows:

The building hereby approved for conversion shall be used for purposes ancillary to the residential use of "Sommerfields", and/or to conduct office activities related to the business of the applicant and his wife only, namely office uses that support the operation of an after school instruction academy operated elsewhere and for no other use whatsoever and no other persons shall be employed therein.

- 3.5 10/01719/F – Detached garage/store/log hovel and drive with associated landscaping and external works – refused. No Appeal was submitted.

The application sought consent for a garage to be positioned to the west of the proposed car port that is the subject of the current application. The application was refused on the following grounds:

The proposed garage/store and access route, by reason of siting, design, materials and scale will result in an unsympathetic and incongruous addition on an undeveloped and elevated important gap of land which forms part of the character of this loose knit settlement and further, the development would fail to preserve, enhance or better reveal the significance of the setting of the Somerton Conservation Area heritage asset as it would be visually prominent and intrusive along a public footpath route no. FP349/10. The development would therefore be contrary to policies BE1, BE6, CC6 of the South East Plan 2009, Policies C28 and C33 of the adopted Cherwell Local Plan and Government advice contained in PPS1 (Delivering Sustainable Development) and PPS5 (Planning for the Historic Environment).

The access from which it is proposed to serve the development is substandard in vision terms and movements generated as a product of the proposal will be of detriment to the safety and convenience of other road users, contrary to Policy T1 of the South East Plan and Government advice contained in PPG13 (Transport).

- 3.6 11/00448/F – Erection of detached garage, store, log hovel and drive with associated landscaping and external works - resubmission of 10/01719/F – refused. No Appeal was submitted.

The application sought to address the reasons for refusal of 10/01719/F through rotating the garage by 90 degrees, sitting in a similar position to the car port that is the subject of the current application.

The application was refused on the following grounds:

The proposed garage/store and access route, by reason of siting, design, materials and scale will result in an unsympathetic and incongruous addition on an undeveloped and elevated important gap of land which forms part of the character of this loose knit settlement and further, the development would fail to preserve, enhance or better reveal the significance of the setting of the Somerton Conservation Area heritage asset as it would be visually prominent and intrusive along a public footpath route no. FP349/10. The development would therefore be contrary to policies BE1, BE6 and CC6 of the South East Plan 2009, Policies C28 and C33 of the adopted Cherwell Local Plan and Government advice contained in PPS1 (Delivering Sustainable Development) and PPS5 (Planning for the Historic Environment).

The access from which it is proposed to serve the development is substandard in vision terms and movements generated as a product of the proposal will be of detriment to the safety and convenience of other road users, contrary to Policy T1 of the South East Plan and Government advice contained in PPG13 (Transport).

3.7 11/01805/F – Erection of detached garage, store and log hovel – granted.

The application sought to address the reasons for refusal of 10/01719/F and 11/00448/F by positioning the garage adjacent to the existing building that has since gained planning permission for conversion to a dwelling at Appeal ref: APP/C3105/W/15/3008323.

The application was approved. The Case Officer for the current application visited the site on 17 November 2015 and the base for the garage was in place.

3.8 13/00894/F – Extension to existing outbuilding and conversion to single dwelling house – refused. No appeal submitted.

The application sought consent to join the garage approved under reference 11/01805/F and the building that is the subject of the current application to form a self-contained dwelling. The application was refused on the following grounds:

Somerton is a Category 2 settlement as defined in the Adopted Cherwell Local Plan 1996. Within such settlements, new residential development is restricted to conversions, infilling and small-scale development which can be shown to secure significant environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions as it will erode an established gap to the significant harm to the setting of the adjacent Somerton Conservation Area and to the established settlement pattern of the village. The proposal is therefore contrary to Government guidance contained within the

National Planning Policy Framework and saved policies H14, C23, C27, C28 and C33 of the adopted Cherwell Local Plan 1996.

The access from which it is proposed to serve the development is substandard in vision and geometric terms and movements generated as a product of this proposal will result in a detriment to the safety and convenience of other road users contrary to central Government guidance contained within the National Planning Policy Framework.

- 3.9 14/00067/F – Conversion of existing building into a self-contained dwelling with associated Highway Safety access improvement works (re-submission of 13/00894/F) – refused; allowed at appeal on 12 June 2015.

The application sought to change the use of the existing building to a self-contained dwelling, to include works to access in order to overcome the previous reasons for refusal on the grounds of highway safety. Officer's recommended that the application was approved, although this was overturned by Members at Planning Committee on 07 August 2014 and the application was refused on the following ground:

The proposed development of a new unit of accommodation in this backland location would erode the established settlement pattern of the village, and with the introduction of a domestic curtilage with all the paraphernalia associated with it, the character and setting of the Conservation Area and the character and amenity of the immediately surrounding area would be detrimentally affected contrary to Policy C27 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

An Appeal was submitted and the proposal was subsequently approved on 12 June 2015 subject to conditions under reference: APP/C3105/W/15/3008323. Some conditions were pre-commencement and these have not yet been discharged. The permitted development rights for extensions and outbuildings were removed.

- 3.10 15/00005/DISC – Discharge of Condition 3 of 11/01805/F – granted.

The application related to the detached garage that was approved under reference 11/01805/F to the west of the building that now benefits from planning permission for conversion to a dwelling Appeal Ref: APP/C3105/W/15/3008323. The application form confirmed that works had started on site on 01 December 2014.

The application was approved on 24 February 2015

- 3.11 15/01895/F - Alterations and erection of extension – Appeal allowed.

The application sought consent to extend and alter the building that was given planning permission at Appeal (ref: APP/C3105/W/15/3008323). Whilst Members resolved to refuse the application, a delay was experienced in issuing the decision and an Appeal against non-determination was subsequently submitted (ref:

APP/C3105/W/16/3143988) including an Appeal for Costs against the Council, both of which were allowed on 09 May 2016.

- 3.12 16/01078/F - Alterations to include extension and basement (revised scheme of 15/01895/F) – pending determination – due to be considered by Members at the Planning Committee meeting on 04 August 2016.

4. Response to Publicity

- 4.1 The application has been publicised via neighbour letter, press notice and site notice. The final date for comment was 21 July 2016. No responses have been received at the time of writing.

5. Response to Consultation

- 5.1 Somerton Parish Council: no comments received at the time of writing.
- 5.2 Cherwell District Council Conservation Officer: no comments received at the time of writing.
- 5.3 Cherwell District Council Arboricultural Officer: no objection.
- 5.4 Oxfordshire County Council Highway Authority: no objection subject to a condition requiring the car port to be kept free of obstructions so that it can be used for the parking of vehicles.
- 5.5 Oxfordshire County Council Rights of Way: no comments received at the time of writing.

6. Relevant National and Local Planning Policy and Guidance

Development Plan Policies:

- 6.1 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (Saved Policies)

C23 – Retention of features contributing to character or appearance of a Conservation Area
C28 – Layout, design and external appearance of new development
C30 – Design control

Other Material Planning Considerations:

- 6.2 National Planning Policy Framework (“the Framework”) - National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.
- 6.3 Planning Practice Guidance (“nPPG”) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. Appraisal

- 7.1 Officers’ consider the following matters to be relevant to the determination of this application:
- Principle of Development;
 - Design, Layout and Appearance;
 - Impact on Heritage Assets, Landscape and Visual Impact;
 - Trees and Landscaping;
 - Accessibility, Highway Safety and Parking;
 - Effect on Neighbouring Amenity;

Principle of Development

- 7.2 The application seeks consent for a detached car port for domestic use. As the permission relating to the conversion of the existing detached outbuilding to an independent dwelling has not yet been implemented, in assessing the proposed development the fact that this may never be implemented must be borne in mind, despite the red line being the same as the approved curtilage for the proposed dwelling and omitting Somerfields.
- 7.3 With regard to the principle of the erection of a car port for use by the occupants of either Somerfields or the potential future dwelling, it is the opinion of Officers that the use of this former paddock for domestic outbuildings has already been accepted. The site has previously benefitted from planning permission for the erection of two domestic outbuildings, one of which has been partially implemented and remains live (ref: 11/01805/F). The use of the land as domestic curtilage for the potential future dwelling has also been accepted through the approval of the conversion of the building to a dwelling at Appeal ref: APP/C3105/W/15/3008323.
- 7.4 The principle of the erection of the car port in this location is therefore considered acceptable.

Design, Layout and Appearance

- 7.5 Government guidance contained within the Framework attaches great importance to the design of the built environment and 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.
- 7.6 Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 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. Saved Policy C28 of the Cherwell Local Plan 1996 seeks to control new development to ensure that it is sympathetic to the character of its context.

- 7.7 The proposed car port is of simple, functional design, consisting of an open fronted timber construction building with slate roof. The structure would sit adjacent to an existing detached blockwork outbuilding that lies beyond the site boundary and would replace an existing shed that is currently being used to house goats. It is considered that the design, layout and appearance of the car port would be in-keeping with the context of the development, in accordance with the above Policies.

Impact on Heritage Assets, Landscape and Visual Impact

- 7.8 Government guidance contained within the Framework attaches great importance to the design of the built environment and 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, in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 7.9 The Conservation Area boundary runs alongside the eastern boundary of the site following the line of the Public Right of Way. The Public Right of Way runs at a higher land level than the site and is separated by a close boarded fence and some sparse vegetation.
- 7.10 It is noted that an application for a garage in a similar location to the car port now proposed was refused under ref: 11/00448/F as it was considered that by reason of siting, design, materials and scale the garage would result in an unsympathetic and incongruous addition on an undeveloped and elevated important gap of land which forms part of the character of this loose knit settlement and further, the development would fail to preserve, enhance or better reveal the significance of the setting of the Somerton Conservation Area heritage asset as it would be visually prominent and intrusive along a public footpath route no. FP349/10. However, the car port now proposed adopts a much smaller footprint than the previously proposed garage, and has been positioned closer to the boundary fence.
- 7.11 The site currently adds to the overall character of the area by virtue of its openness and serves to separate the dwellings on Heyford Road from those situated in The Paddock. Whilst the proposed development would introduce a further structure into this area, given its reduced footprint and proximity to the boundary, Officers do not consider that the car port could be described as causing harm to the historic significance of the designated Conservation Area.
- 7.12 Views of the structure would be obtainable from the public footpath, although due to the lower ground level and existing boundary fence the views would consist predominantly of the pitched roof, sloping away from the footpath thus reducing visual impact. The car port would clearly be distinguishable as an outbuilding, and would sit adjacent to another existing outbuilding, and would not compete with the surrounding dwellings.
- 7.13 The cumulative impact of the proposed car port, the detached garage benefitting from an extant consent and the potentially extended dwelling/home office has been borne in mind in this assessment, although they are well spaced around the site and it is not considered that it would appear cramped or cluttered as a result of all schemes being fully implemented.
- 7.14 The proposed development therefore accords with saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Framework in terms of the impact on the designated Conservation Area, wider landscape and visual amenities of the locality.

Trees and Landscaping

- 7.15 The proposed development would be positioned in close proximity to existing mature trees alongside the public footpath. The applicant does not intend to undertake works to the trees as part of the development. The Arboricultural Officer has raised no objection to the application with regard to the impact of the development upon the trees and Officers therefore consider that no harm would be caused to their health and longevity, in accordance with saved Policies C23 and C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Framework.

Accessibility, Highway Safety and Parking

- 7.16 Government guidance contained within the Framework seeks developments that are located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. The proposed development would make use of the existing access to the site. If the permission for the conversion of the dwelling is implemented, improvements to the access would be required in accordance with relevant conditions attached to that consent. If the conversion of the dwelling is not implemented, the usage of the site would not differ from that experienced at present by the occupants of Somerfields.
- 7.18 Oxfordshire County Council as local highway authority is satisfied that the development would not result in harm to highway safety. A condition has been recommended requiring the car port to be kept free of obstructions so that it can be used for the parking of vehicles, although given that more than two vehicles could be parked on the proposed hard surfaced area leading to the carport this is not considered reasonable.

Neighbour Amenity

- 7.19 Government guidance contained within the Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 states that development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Saved Policy C30 of the Cherwell Local Plan 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.
- 7.20 The proposed car port would be positioned 19 metres from the front elevations of 4 and 5 The Paddocks to the west, and this exceeds the minimum separating distance of 14 metres required by the Cherwell District Council Home Extensions and Alterations Guide (2007) in order to avoid overshadowing. It is considered that this separating distance, together with the difference in land level, would serve to avoid harm in terms of an overbearing appearance. All other neighbouring properties are positioned a sufficient distance from the proposed car port to avoid harm in terms of a loss of amenity.
- 7.21 No living accommodation or openings are proposed that could result in a loss of privacy for any neighbour. The proposal is considered to accord with the above Policies in terms of neighbour amenity.

8. Conclusion

- 8.1 For the reasons set out in this report the proposed car port would represent a sympathetic addition to its context through appropriate design, positioning and choice of construction materials. The development would not cause harm to the historic significance of the

designated Conservation Area, the visual amenities of the locality, adjacent trees, highway safety or neighbour amenity, in accordance with Government guidance contained within The Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policies C23 and C28 of the Cherwell Local Plan 1996.

9. Recommendation

Approve, subject to conditions,

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. 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: Application Form, Drawing Numbers: P/16/103/001 and P/16/103/002

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.

3. Prior to the commencement of the development hereby approved, samples of the slate and timber, including colour/finish, to be used in the construction of the walls and roof of the car port shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out fully in accordance with the samples so approved.

Reason – To ensure the satisfactory appearance of the completed development and to comply with saved Policy C28 of the Cherwell Local Plan, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, full details of the hardsurfacing, (including material, colouring and layout), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the hardsurfacing shall be provided on site fully in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with saved Policy C28 of the Cherwell Local Plan, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

NOTES

1. This permission shall not imply or be deemed to imply approval for details required in order to discharge conditions from application ref: 14/00067/F, the use of the car port as part of the independent self-contained dwelling, or the retention, or alteration, of the existing access or parking

area serving the site. The above matters will need to be considered as part of an application to discharge conditions, or to vary, or remove, relevant conditions.

2. It is known that in some areas of the northern part of Cherwell District elevated concentrations of naturally occurring arsenic, chromium and nickel and in Souldern, Somerton, Upper Heyford, Lower Heyford and Kirtlington elevated levels of naturally occurring arsenic exist above soil guideline values produced by DEFRA. While these elements are not considered a risk to residents occupying the completed development, there exists a potential risk to residents using the garden for home grown produce or where regular contact with the soil occurs due to ingestion and dermal contact. A risk may also occur to building site workers during construction, due to dermal contact and inhalation of potentially contaminated soil and dust. The applicant is therefore requested to ensure contact with the soil is minimised, especially where young children are present and not to grow home grown produce until such a potential risk has been shown to be negligible. In addition, to ensure that all site workers are informed of this potential risk and that appropriate health and safety requirements are used to protect the site workers. For further information please contact the Council's Environmental Protection Officer.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) Order 2015 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 applicant/agent in a positive and proactive way as the decision has been made in an efficient and timely way.

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