

<b>Application</b> 09/00371/F	<b>No:</b>	<b>Ward: Wroxton</b>	<b>Date</b> 18/05/2009	<b>Valid:</b>
<b>Applicant:</b>	Mr John Gardner			
<b>Site Address:</b>	Old Barton, High Street, Shutford, Oxfordshire, OX15 6PQ			

**Proposal:** Proposed 3 car garage with office in roof space (as amended by plans and forms received 12/05/09 and plans received 16/06/09)

## 1. Site Description and Proposal

- 1.1 The application site is an area of land to the rear of Old Bartons (a Grade II listed building) and Monastery (sic.) Lodge, South of the High Street. It is accessed by a track running between these two properties. The access track and turning space between the site for the proposed garage and office block is in shared ownership between Old Bartons, Monastery Lodge and Pemberley (to the East of Old Bartons).
- 1.2 There is a significant change in levels between the ground level of the application site and the ground level of the gardens surrounding the site to the South-West, South and South-East. The site, driveway and turning area is all between two and three metres lower than the surrounding gardens, with the land levels sloping down towards the North and the access to the High Street. The site boundaries to the South and West of the site are well screened and vegetated.
- 1.3 The proposal is for a detached three bay garage, in local stone under a tile roof, with office space above, served by a covered external staircase. The garage is proposed for use ancillary to the domestic use of the dwellinghouse, the office space is proposed to be used for the applicant's accountancy business which has been run from Old Bartons for at least eight years prior to this application. No increase in the size of the business is proposed, merely the relocation from inside the domestic house to the office space above the garage.
- 1.4 The proposed garage block is 7.3m deep and 9.2m wide. The eaves height is 2.4m, and the ridge height is 6m, giving a steeply pitched roof at 45°. At first floor level, the office space is served by four roof-lights in each roof-slope. No side facing upper floor windows are proposed.
- 1.5 The front wall of the proposed garage block will sit 22m from the rear of Monastery Lodge to the North, 30m from Pemberley to the North-East, 19m from the rear of Monastery Farm to the West and in excess of 30m from properties to the East.
- 1.6 Views into the site from the public domain are possible when travelling down High Street, but the site is not prominent in the street-scene due to its set back from the highway.

## 2. Application Publicity

- 2.1 The application has been advertised by way of press notice, site notice and neighbour letters. The final date for comment, following the second set of amendments was 03 July 2009.
- 2.2 Objections were received from eight neighbouring properties, including two which do not directly adjoin the site, and two to the North of the High Street.
- 2.3 Material considerations raised were:
- -the garage is considered to be an inappropriate size and style for the location and that the scale is out of keeping with the surroundings
  - -the proposal causes loss of privacy through unacceptable overlooking
  - -potential for overshadowing
  - -parking, highway safety and traffic generation
  - -the proposed commercial use is inappropriate in this location
  - -the proposed garage block looks like a house and could be converted to a dwelling in the future
  - -impact on the setting of the nearby listed buildings
- 2.4 Several non-material issues were also raised by many contributors, including the issue of legal covenants attached to the land, ownership of and access to the shared driveway for building work/sewerage/services/utilities and property prices
- 2.5 Concern was expressed by some contributors that earlier comments would no longer be considered following receipt of amended plans, but all of the comments received in relation to the application have been given due weight and consideration.

## 3. Consultations

- 3.1 **Shutford Parish Council** - objects to the scheme, considering it too large for the site and too large for the proposed use.
- 3.2 **Conservation Officer** – has concerns that the building is large and somewhat untraditional for a space which was historically a farmyard. However, the Conservation Officer also accepts that the site is not in a Conservation Area, and that the distance from the adjacent listed buildings and the nature of the site means that the impact on the setting of the adjacent listed buildings is limited. She does not suggest any reasons for refusal, but has suggested conditions, which have been attached at the end of this report.
- 3.3 **Local Highways Liaison Officer** – no objections subject to the conditions attached at the end of this report.
- 3.4 **Planning and Affordable Housing Policy** – no objections subject to conditions restricting the use/ownership of the building given its detached nature

## **4. Relevant Planning Policies**

- 4.1 Adopted Cherwell Local Plan 1996 – C28, C30, C31
- 4.2 Non Statutory Cherwell Local Plan 2011 – EMP12
- 4.3 South East Plan 2009 – BE1, BE6, CC6
- 4.4 PPG 15 – Planning and the Historic Environment

## **5. Appraisal**

- 5.1 This proposal is a resubmission of an earlier withdrawn proposal from 2008 (08/01795/F refers). The original application was for a similar scheme, a garage with office space above, but was withdrawn following neighbour concerns and officer concerns over the information provided with the application concerning land-ownership (and procedural matters arising from this), the proposed use of the building and the accuracy of some of the drawings/plans.
- 5.2 The resubmitted application has dealt with the procedural issues relating to land ownership (including serving the required notice on the relevant parties), and is clear about the use of the office space above the garage. The fee and forms for the application were amended to Full Planning Permission rather than a Householder application to reflect this. Following concerns over the accuracy of the plans submitted with the first application, the site and surrounding area has been surveyed and this survey submitted with the application. The survey report has been used to generate the site plans and it is from this survey that levels and sections have been taken.
- 5.3 Some contributors have expressed concern that the application may have been pre-judged at pre-application stage. The agent and applicant were advised that the application should be resubmitted for consideration, but any advice given was without prejudice to the ultimate determination of the application. Concerns have also been expressed that the applicant is attempting to 'wear-down' objectors with various minor amendments and changes being made immediately prior to decision. Amendments to the application have been made by the applicant in order to address some of the concerns of contributors, and contributors have been given time to respond to all amendments made to the scheme.
- 5.4 The acceptability or otherwise of the proposal is a finely balanced issue; it is to be considered in terms of the appropriateness of the size and scale of the structure in the context of the locality, the impact on the amenity of the neighbouring properties by way of potential overlooking and traffic/parking and highway safety issues and the impact of the development on the setting of the listed building.
- 5.5 The proposed garage building/office space is considered to be acceptable in terms of its size and scale given the context and proposed use of the development. It is accepted that the building is large; with a ridge height of 6m and a steeply pitched roof, the building will appear as a large structure. However, given the context of the

site this is not considered inappropriate or unacceptable. The setting of the building into the back of the site, with the elevated ground levels to the rear and sides mitigates the appearance of the building and lessens the impact on the properties to the East and West. Comments concerning the height and size of the building are noted, but the building is not considered unacceptable. The change in levels between the front of the site and the buildings adjacent to the highway means that the ridge of the building will sit lower than Old Bartons and Monastery Lodge. The ridge will only be approximately 1m higher than that of the existing garage to the rear of Monastery Lodge. Following amendments, the bulk of the building has increased slightly, as the external staircase has been enclosed following contributor comments.

- 5.6 The relevant policies in the adopted Cherwell Local Plan require that the design, external appearance, character and scale of the development is in keeping with and respects the context of the surrounding buildings. It is considered that the use of traditional materials and the steeply pitched roof do respect the character and context of the area and as such are in accordance with the policies. As discussed above, the size and scale is also considered to be in keeping with the scale and appearance of the area.
- 5.7 With regard to the issues of overlooking and loss of privacy, raised by contributors and as a result of the North and South facing roof-lights, despite the objections raised, the roof-lights are considered acceptable. It is not considered that any overlooking as a result of these roof-lights will cause enough harm to warrant or sustain a reason for refusal. In terms of potential overlooking to the North, towards Monastery Lodge and Pemberley, the proposed building is greater than 22m away from the rear windows of these properties. As 22m is the recommended separation between habitable room-windows in residential properties, this separation between an office space and private dwelling is considered acceptable. With regard to the potential for overlooking to the rear of the proposal, to the South, it is accepted that there is potential for views into the garden areas to the rear, but given the size of the gardens, the level of tree/vegetation screening to the Southern boundary, any potential overlooking is not considered harmful or unacceptable.
- 5.8 The proposal is not considered to cause any unacceptable impact on the neighbours to the East and West of the site. The proposal will be visible, but will only present a gabled elevation to these properties, the appearance and impact of which is considered acceptable.
- 5.9 The size, location and orientation of the proposal will not cause any significant or unacceptable overshadowing or loss of light to any of the adjoining properties.
- 5.10 Another key issue in the application and raised by many of the contributors is the business use of the office space above the garage, the compatibility of this use with the residential area, the traffic/highway safety/parking implications of this use and any possible intensification of the use.
- 5.11 According to the information supplied with the application, the applicant has been running his accountancy business from the property since 2000; with the same number of staff and visitors expected to continue were the business to move into the separate building. Any potential expansion of the business following grant of planning permission would be limited by the size of the building. Given the scale of

the proposed use and the way in which it has been continuing on the site for eight years, the continuation of this use, albeit now in a separate building is not considered to be unacceptable, or incompatible with the nearby residential properties. Accountancy is a low-key employment use and as such is considered compatible with residential use. As such the proposal is considered to comply with policy EMP12 of the non-statutory Cherwell Local Plan.

- 5.12 In terms of the highway implications, with regards to parking, access and highway safety, the application has been considered by the Highways Liaison Officer, who raises no objections subject to the imposition of conditions. Comments have been made concerning the accuracy of the turning plan submitted with the application; concerns have been raised that the plan is misleading and purports to show the drive as being wide enough for cars to pass. The Highways Liaison Officer and the Case Officer are aware of the width of the driveway, and consider that the plan submitted is accurate and shows the area is wide enough for cars to manoeuvre, without the need to pass on the driveway.
- 5.13 The final main issue to consider is the impact of the proposal on the setting of the listed buildings which surround the site. Given the level changes, screening and nature of the site, it is considered that the building only lies in the setting of Old Bartons; the other listed buildings being separated by level changes, intervening buildings and distance. The impact on the setting of Old Bartons is not considered to be unacceptable. As already mentioned, the style of the building, with stone walls, timber doors and windows and a steeply pitched tile roof is considered to be in keeping with the local style and not detrimental to the setting of Old Bartons. In this respect, the proposal is in keeping with the provisions of PPG15 – Planning and the Historic Environment, and Policies BE6 and CC6 of the South East Plan.
- 5.14 The committee is respectfully reminded that the issue of legal covenants relating to the use of the land, imposed by the original vendors of the land (understood to be the Crown) is not a material planning consideration and should not be taken into account, despite being raised by most of the objectors.
- 5.15 For the same reason, issues of drainage, access to the land for construction, works to the shared driveway for connecting services and utilities are not matters to be taken into account when considering this application. A planning note has been suggested, reminding the applicant of third party rights and the precedence of legal rights over planning permission.
- 5.16 No conditions have been suggested removing permitted development rights relating to conversion of the garage space or controlling the insertion of new windows/doors as the garage/office block would not benefit from these permitted development rights as it lies outside the domestic curtilage of Old Bartons. Part 1 of the General Permitted Development Order, which deals with alterations of this nature, is specifically restricted to development within the curtilage of the dwellinghouse. A planning note has been suggested reminding the applicant of this.
- 5.17 Concerns have been expressed by several contributors that the building may be considered for conversion to a separate residential dwelling in the future. No conditions have been suggested restricting this, as this change would require planning permission in itself.

- 5.18 It is considered that the suggested conditions, coupled with the already mentioned restrictions in the GPDO, and the requirements of other elements of planning law are robust enough to allow the Local Planning Authority to adequately control and restrict the use and size of the development in order for the impact on neighbouring residential properties to remain acceptable.
- 5.19 Were an application to be received for conversion into separate residential use, it would of course have to be considered on its own merits but given the size of the site and its location, an application is unlikely to succeed.

## **6. Recommendation**

**Approval, subject to the following conditions;**

- 1) 1.4A Full Permission: Duration Limit (3 years)(RC2)**
- 2) 2.3CC Walls in natural ironstone – sample panel to be approved (RC5B) insert “garage”**
- 3) 2.2BB Samples of roofing materials to be approved (RC4A) insert “tiles” and “garage”**
- 4) 5.14A Joinery details to be approved (RC5B) insert “windows and doors”**
- 5) 5.19A Conservation roof-lights (RC27AA)**
- 6) 4.13CD Parking and manoeuvring area provided as plan, with construction to be approved (RC13BB)**
- 7) That the garage space hereby permitted shall only be used in connection with the residential use of the dwellinghouse, being the house currently known as Old Bartons to the North of the site. (RC40AA)**
- 8) That the office space hereby permitted shall only be used in connection with a business use (Class B1 of the Town and Country Planning Use Classes Order) run by the owner/occupier of the house currently known as Old Bartons to the North of the site and shall not be sold, leased or used as an independent office/business unit. (RC40AA)**

### **Planning Notes**

- 1) T1 – Third party rights – legal issues not over-ridden by planning consent**
- 2) The applicant is reminded that as the garage block and office are not within the domestic curtilage of Old Bartons, the building hereby approved will not benefit from permitted development rights under Part 1 of the General Permitted Development Order (as amended).**
- 3) U1 – Construction sites**

**4) S1 – Post permission changes**

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION**

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed garage block and office space is of a design, size and style that is appropriate and will not unduly impact on the neighbouring properties or the setting of the adjacent listed buildings. As such the proposal is in accordance with government guidance contained within PPG 15 – Planning and the Historic Environment, Policies BE1, BE6 and CC6 of the South East Plan 2009, Policies C28, C30 and C31 of the adopted Cherwell Local Plan and Policy EMP12 of the Non-Statutory Cherwell Local Plan 2011. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

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