

Stratton Fields Livery Stables
Launton Road
Stratton Audley
Bicester
OX27 9AS

17/00591/F

Applicant: Mr M Chick

Proposal: Demolish livery stables including one bedroom flat; erection of three bedroom dwelling - Re-submission of 16/02389/F

Ward: Launton and Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Referred by Cllr Tim Hallchurch

Expiry Date: 9 May 2017 **Committee Date:** 18th May 2017

Recommendation: Refusal

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located in an isolated position on the Launton Road approximately a kilometre south west of Stratton Audley.
- 1.2. The site currently accommodates a DIY livery which includes a stable block to the front of the site and a larger building to the rear accommodating further stabling. There is also a 1 bedroom flat located in the larger barn. This is situated in an elevated first floor position in the North West corner of the building above the stabling and is accessed via a staircase within the stable building.
- 1.3. The land immediately to the south and west of the buildings are used for the livery business and a manège exists to the south of the buildings.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks permission to demolish the existing larger barn which accommodates some stabling and the 1 bedroom flat and replace it with a 3 bedroom dwelling. The proposed dwelling would be located on part of the footprint of the former barn and would have a broadly T shaped floor plan and be one and a half storey in scale.
- 2.2. The front elevation and part of the side returns of the dwelling would be constructed of local rubble stone to just above the ground floor windows with larch cladding above this to the eaves of the building. The remainder of the elevations would be clad with larch cladding and the roof would be constructed of slate.
- 2.3. A parking area serving the dwelling would be located to the front of the site and a garden would be located to the rear enclosed by an existing post and rail fence.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
05/00235/F	Change of use from agricultural to paddocks and pole barn to stables, together with outdoor riding arena	Application Permitted
08/02278/F	Change of use of existing barn and facilities for use as DIY part/assisted livery stables	Application Permitted
09/00138/F	Three wooden stables with tack room and hay store, plus demolition of old store shed.	Application Permitted
16/00941/CLUE	Certificate of Lawfulness of Existing Use for the Occupation of first floor of the Site as Self Contained Flat	Application Permitted

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site. The final date for comments was 18.04.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2. The applicant has submitted 10 letters of support for the proposal and a petition of support signed by 55 people. The comments can be summarised as follows:

- The proposal would replace an ugly utilitarian building and the proposal would be more in keeping with the rural setting and be more aesthetically pleasing.
- The house will provide security for the horses on site.
- The grass livery is something that is much required in the locality.
- It would create a home for the people who live at the site.
- The proposed house will be efficient and environmentally friendly.

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

6. RESPONSE TO CONSULTATION

6.1. 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.

WARD COUNCILLOR

- 6.2. COUNCILLOR TIM HALLCHURCH MBE: **Comments.** The reasons why I would like the case to go to committee are concerned with the planning history of the site and whether there is an essential need for the proposed dwelling to serve as a rural workers dwelling.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.3. LAUNTON PARISH COUNCIL: **No objections** however state that they are concerned about setting a precedent about deviating outside the limits of the village and hope that replacing an existing dwelling rather than building a new dwelling on the site of stables means that no undesirable precedent will be set.

STATUTORY CONSULTEES

- 6.4. LOCAL HIGHWAY AUTHORITY: **No objections.** The proposed new dwelling will use an existing access on to Launton Road. The number of traffic movements associated with the proposal is likely to be less than for the previous use of the site as stables. Three parking spaces are to be included, which is adequate provision for the size of property, and a suitable turning area allowing vehicles to leave in a forward gear. The proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.
- 6.5. NATURAL ENGLAND: **No comments.**

NON-STATUTORY CONSULTEES

- 6.6. CDC ECOLOGY: **No objection** subject to planning notes on bats and nesting birds. The proposal is unlikely to have any impact on bats as the existing building has very low potential. The building should be demolished outside bird nesting season. Given the existing hard standing and the nearest pond being approx. 180m from the site boundary the potential for great crested newts is considered unlikely. However it would be advisable for the applicant to follow the method statement to reduce the risk of impacting on great crested newts as outlined in the report as a precautionary measure.
- 6.7. CDC LANDSCAPE: **Comments.** In terms of landscape and visual impact this development is an improvement in that it is replacing a barn with a dwelling. There are no PRow's in the vicinity with views of the site and only glimpsed views from the road. Queries how the manège will be accessed and raises concerns where the contents of the existing barn will go and would not want to see another barn on the site.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. 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
- SLE4 – Improved Transport and Connections
- BSC2 – The Effective and Efficient Use of Land
- ESD1 – Mitigating and Adapting to Climate Change
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New Dwellings Outside Built up Limits
- H17 – Replacement Dwellings
- C28 – Layout, design and external appearance of new development
- C30 – Design Control
- ENV1 – Pollution Control

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

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

- Planning History
- Principle of development
- Design, and impact on the character of the area
- Impact on livery business
- Highways
- Other Matters

Planning History

8.2. The relevant planning history of the site can be seen in full in section 3 of this report. The site has been the subject of a number of applications which have allowed for the site to be used as a DIY / part assisted livery stables and for the land to the south and west of the stables to be used for equestrian purposes.

8.3. In 2016 the applicant applied for a Certificate of Lawful Existing Use for the occupation of a small area of the first floor of the larger barn as a self contained 1 bedroom flat. In this type of application the onus is on the applicant to demonstrate that the use (i.e. as a self contained flat) had been happening for at least 4 years on a continuous basis in breach of planning control without being enforced against, to establish a lawful use on the site. An assessment of the development against planning policy is not made in these types of applications as there can be no consideration of the planning merits of the development. Rather the Council is required to make a judgement, based on the available evidence, whether the use applied for is now immune from enforcement action and so lawful in planning terms.

8.4. A series of documents including sworn statements were presented to the Council as evidence to support this earlier application and subsequently it was determined that

the use of a small part of the barn as a 1 bedroom dwelling had been occurring for in excess of 4 years and as such a certificate of lawful development was issued. This means the Council can no longer enforce against this use and a residential use is established on this small part of this site.

Principle

- 8.5. As outlined above the application site currently accommodates a small 1 bedroom flat. This is situated in the northwest corner of the larger barn on the site and is situated in an elevated first floor position above the stabling. It is accessed to the north of the barn and essentially forms part of the wider barn which is used for stabling of horses and storage.
- 8.6. As the current dwelling on the site was granted under a lawful development certificate there are no planning restrictions which tie its occupation to someone employed at the livery on site. However given the very close and intimate relationship between the existing livery and the dwelling (i.e. within the same building and immediately surrounding the dwelling); along with the limited size of the dwelling and restricted amenity of the dwelling, it is considered that it is very unlikely that it would be lived in by anyone but someone with a close association with the livery. Therefore whilst there is no planning condition restricting the occupation of the existing dwelling to the livery business, in practical terms it is considered reasonable to conclude that the dwelling would only be occupied by someone associated with the livery. Essentially therefore officers consider that the existing dwelling operates as a tied dwelling and it is considered that this is a material consideration which should be given weight in determining the application.
- 8.7. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites, therefore the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 8.8. In terms of the distribution of new dwellings Policy ESD1 of the Cherwell Local Plan (2011-2031 Part 1) states that measures will be taken to mitigate the impact of development within the District on climate change including distributing housing growth to the most sustainable locations, and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 8.9. The application site falls outside the built up limits of any village in an isolated location away from other development or services. Saved Policy H18 seeks to restrict new dwellings in such locations except in a number of cases including where they are essential for agriculture or other existing undertakings. This policy is considered to be consistent with paragraph 55 of the NPPF which seeks to restrict isolated new dwellings in the open countryside.
- 8.10. As the existing dwelling was granted under a Certificate of Lawful Use, there was no assessment of the proposal against the Development Plan. However as outlined

above the existing dwelling is considered to operate essentially as a tied dwelling to the existing livery use given the very close physical and functional relationship between the uses and, subject to the necessary justification being provided in terms of the need for someone to live permanently on site in connection with the livery business, may have been supported in planning terms. It is unlikely it would have been supported otherwise, particularly given the isolated location and the likely amenity conflicts with the operation of the livery business.

- 8.11. The current application would result in the existing building being demolished and the erection of a new 3 bedroom dwelling which is substantially larger than the existing dwelling on site. This would have no associated tie with the livery and would not have the same intimate relationship and could be occupied by anyone not necessarily a rural worker. It is therefore considered to conflict with Saved Policy H18 which restricts the development of new dwellings in isolated locations. The increased size of the dwelling also raises concerns over whether such a dwelling would be affordable and accessible to a rural worker, and in any event no case for the essential need for a worker to live on site in connection with the livery business has been made.
- 8.12. In conclusion it is therefore considered that the proposal would result in the replacement of a small dwelling which is only likely to be occupied by a person operating the livery with a substantially larger 3 bedroom dwelling. The new dwelling would be far more independent of the livery and could be occupied by anyone not necessarily a rural worker, and no case has been made for the essential need for a worker to live on site. It is therefore considered that the proposal would lead to the creation of a new independent dwelling in an isolated location away from services and facilities contrary to Policy ESD1 of the Cherwell Local Plan Part 1, Saved Policy H18 of the Cherwell Local Plan and advice in the NPPF particularly paragraph 55.

Design, and impact on the character of the area

- 8.13. 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 expected to meet high design standards. Development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Policy ESD13 states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside or be inconsistent with local character.
- 8.14. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new development to ensure that the standards of layout, design and external appearance are sympathetic to the character of the rural context of that development.
- 8.15. Saved Policy C30 of the Cherwell Local Plan 1996 exercises control to ensure that new housing development is compatible with the appearance, layout and density of existing dwellings in the vicinity.
- 8.16. As the proposal is for a replacement dwelling, Saved Policy H17 relating to replacement dwellings is also relevant. This states that proposals for the one-for-one replacement of an existing dwelling will normally be permitted providing that the building is not a listed building and where the existing building lies outside the built up limits of settlements, such as in this case, the use of a dwelling has not been abandoned and its proposed replacement is similar in scale and within the same curtilage. The main objective of this policy is to protect the character of the countryside which is considered to be in accordance with paragraph 17 of the NPPF

which seeks to take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the open countryside. The supporting text to Saved Policy H17 goes on to state *'proposals for substantially larger and more conspicuous dwellings in the landscape will be resisted'* (para 2.75)

- 8.17. In the assessment of this application, the Council is not only considering the size and scale of the existing flat compared to the size and scale of the proposed dwelling, but also the additional curtilage proposed associated with the new dwelling. The applicant appears to be comparing the size of the proposed dwelling with the size of the existing livery barn which would be demolished however this is not the correct test and it should be compared to the size of the existing 1 bedroom flat which only occupies a small element of this building, and does not currently have an external presence. As such, to all intents and purposes, the appearance of the existing building is not domestic but typical of many farm and stable buildings found in the countryside. It is also noted that the certificate of lawful development did not include any residential curtilage whereas the current application does show areas of amenity space and garden to the front and rear of the proposed dwelling. Whilst it is accepted that the occupier of the flat would have used the access from the road there is no indication of a garden space serving the flat.
- 8.18. Whilst a mathematical comparison is not decisive as the visual impact is also a significant factor it does provide an indicator of the comparative sizes of the dwellings. The footprint of the existing dwelling granted under the certificate is approximately 45m² with an internal floor area of 41m². The proposed dwelling would have a footprint of approximately 122m² with a floor area of 197m². This demonstrates that the physical size of the dwelling will be significantly larger than the dwelling it replaces. The proposal would also extend the curtilage of the dwelling which has previously been drawn tightly around the building which would further impact on the character and appearance of the site. The proposal therefore conflicts with guidance on scale provided in Saved Policy H17.
- 8.19. In terms of the visual impact of the development the site would be visible from a number of viewpoints along Launton Road and there may also be some glimpses from the surrounding footpath network particularly when hedges are cut and in the winter months. The existing dwelling is well contained within the stables complex and functions as a subservient element of it. Therefore the existing dwelling has a very limited visual impact on the surrounding area. Some of the letters of support and the landscape officer have stated that the proposal would lead to a visual enhancement to the site through the loss of the existing large barn on the site. Whilst it is acknowledged that the existing barn is not of any architectural merit, has a functional appearance and is a prominent feature within the site, it has an agricultural appearance and does not appear out of keeping with the surrounding rural landscape. It is relatively inconspicuous in the wider landscape given that these types of functional building are found throughout the rural landscape in connection with agriculture and equestrian uses, and therefore it sits conformably in its context. Its removal is therefore not considered to be a significant benefit of the scheme and does not justify its replacement with a substantially larger and more conspicuous dwelling, contrary to Policy H17.
- 8.20. Whilst the proposed development would have a smaller foot print than the existing barn accommodating the existing dwelling it would be considerably larger in scale, footprint and floor areas than the existing 1 bedroom flat within the building as outlined above. It would also be taller than the existing building further increasing its visual impact. The proposed dwelling would also lead to a significant unjustified domestication of the site and surroundings, by virtue of the domestic appearance of the dwelling and the extended gardens around the building. This would lead to an

undue visual intrusion in the landscape and would be prominent and out of keeping with the open countryside setting of the site.

- 8.21. The design of the proposed dwelling is also not considered to be sympathetic to the locality or reinforce local distinctiveness. Whilst the front elevation of the building would partly be constructed of local stone, much of the design of the dwelling would be dominated by timber cladding which is not a traditional material used in the area. The design of the building appears to be an awkward mix of a chalet style bungalow and former outbuilding which does not create a locally distinctive form or appearance. The different elements appear convoluted, particularly the heavy use of timber cladding, the awkward roof arrangement, the proliferation of rooflights, and the large amount of glazing to the southern elevation.
- 8.22. Overall it is therefore considered that the proposal would result in a replacement dwelling which is significantly larger and more intrusive than the existing dwelling on the site. It would appear significantly more visually intrusive and prominent in the surrounding agricultural landscape and would damage the rural character and appearance of the site through a significant domestication of the site in an open countryside setting. The proposal would therefore conflict with Saved Policies H17, C28 and C30 of the Cherwell Local Plan (1996), Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031 Part 1) and advice in the NPPF.

Impact on livery business

- 8.23. Officers did raise concerns with the applicant that the loss of the existing livery building on the site would detrimentally impact on the livery business and result in the requirement for further building to accommodate the uses currently housed in the building. The applicant however has stated that 'the stables within the main barn are no longer required to support the business and following redevelopment the business model will move to a grass livery operation, retaining the timber stables to the north of the proposed dwelling to provide stabled DIY and assisted livery accommodation. This reflects a change in the livery market which has seen significant reduction in the use of the stable on site' (para 4.13 of applicants Planning Statement). They therefore state there is no intention or need to replace the building with alternative stable accommodation of storage space.

Highways

- 8.24. The proposed development would utilise the existing access from Launton Road which serves the livery business and existing flat. The proposed plans shows parking to the front of the dwelling and parking for the livery business would continue to be provided on site to the front of the stables. The Highway Authority has been consulted and has raised no objection to the application and the proposal is therefore considered to be acceptable in this regard.

Other matters

- 8.25. Policy ESD15 seeks to ensure that existing and proposed dwellings have adequate levels of amenity. In this case there are not considered to be any neighbouring properties which would be impacted upon by the proposal and the proposed dwelling is considered to provide a good standard of amenity to future residents in terms of internal and external space.
- 8.26. That said, the close relationship with the surrounding livery use is a concern, with potential for noise, disturbance, odours and smells to have an adverse impact on the future occupiers of the dwelling. This would be contrary to Saved Policy ENV1 of the Cherwell Local Plan 1996, and Government Guidance in the NPPF which seeks to

avoid introducing new development that would result in conflicts with existing business uses. As such, and notwithstanding that no essential need for a rural worker to live permanently at the site has been demonstrated, if the Council is minded to grant permission a condition would be necessary preventing the dwelling from being sold separately from the livery business.

- 8.27. As the existing building is used for equestrian and residential purposes it therefore constitutes previous developed land. Paragraph 111 of the NPPF states planning decisions should encourage the effective use of land by reusing land that has been previous developed. Policy BSC2 of the Cherwell Local Plan Part 1 seeks to build on this and states that the Council will encourage reuse of previously developed land in sustainable locations. Whilst the fact that the site is previously developed weighs in favour of this proposal, given the isolated unsustainable location of the development the weight that is attributed to this benefit is limited and it is not considered to be supported by Policy BSC2.
- 8.28. Policy BSC10 seek to protect the natural environment. The current application has been accompanied by a bat survey which concludes the existing building has low potential to accommodate bats. The Councils Ecologist has assessed the application and has no objection to the application.
- 8.29. A number of comments have been made regarding the new dwelling improving the security of the site by having a presence on the site and this being a benefit of the scheme to the existing business. However it should be noted that there is already a lawful dwelling on the site which was granted under the Certificate of Lawful Development which provides security to the site and therefore this issue is not considered to carry significant weight in the planning balance.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the environmental, social and economic benefits of sustainable development should be sought jointly. It also highlights the importance of the Development Plan and states that proposals which conflict with the development plan should be refused unless material considerations indicate otherwise.
- 9.2. In the current application the proposal would result in the creation of a new independent dwelling in an unsustainable location. Whilst there is an existing dwelling on the site this is very modest in size and given its relationship with the existing livery business on the site is only likely to be occupied by a person associated with the business. It therefore essentially constitutes a rural workers dwelling. The new dwelling would not be linked to the business and may be occupied independently of the business and is situated in an isolated unsustainable location resulting in environmental harm. No essential need for a rural worker to live on site has been demonstrated, and the proposal would also result in further environmental harm by virtue of the scale and design of the dwelling and its associated domestic curtilage, and the detrimental impact it would have on the rural character and appearance of the open countryside.
- 9.3. Whilst the proposal would lead to some modest social and economic benefits and the re-use of previously developed land, these matters are not considered to outweigh the environmental harm outlined above and the conflict with the Development Plan. It is therefore recommended that planning permission be refused.

10. RECOMMENDATION

That permission is refused, for the following reason(s):

1. The proposed development would result in the creation of a new independent dwelling in an isolated location away from services and facilities. Whilst it would replace an existing dwelling on site, due to its small size and intimate physical and functional relationship with the stables building, this existing dwelling would only be likely to be occupied by a person associated with the existing livery business. However no essential need for a rural worker to live permanently at the site has been demonstrated and the proposal would therefore lead to the erection of a new dwelling in an unsustainable location and would be contrary to Policy ESD1 of the Cherwell Local Plan Part 1 (2015), Saved Policy H18 of the Cherwell Local Plan 1996 and advice in the NPPF.
2. The proposed dwelling, by virtue of its scale, locally incongruous design and convoluted form, and associated residential curtilage, would result in a noticeably more conspicuous and harmful form of development which would be detrimental to the rural character and appearance of the area and open countryside setting of the site. It would also fail to reinforce local distinctiveness. The proposal would therefore be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policies H17 and C28 of the Cherwell Local Plan 1996 and advice in the NPPF.

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