

**Plot 2  
Mallories  
Cherry Street  
Stratton Audley**

**17/01710/F**

**Applicant:** Mr Michael Long

**Proposal:** Removal of condition 7 (plan of wall, method of joining stonework) of 16/02631/F

**Ward:** Fringford And Heyfords

**Councillors:** Cllr Ian Corkin  
Cllr James Macnamara  
Cllr Barry Wood

**Reason for Referral:** Referred to Planning Committee by Councillor Ian Corkin

**Expiry Date:** 10 October 2017      **Committee Date:** 26 October 2017

**Recommendation:** Approve

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is set in the rear garden of the dwelling to the northwest, known as Mallories, which is a semi-detached property constructed of stone under a tiled roof in the centre of Stratton Audley. The site includes the existing access to Mallories within its 'red line' site area, which is to the far south of the site. On the site as existing is a stone wall which fronts Church Street, with a garage/outbuilding serving Mallories to the rear of this.
- 1.2. The site lies within the designated Stratton Audley Conservation Area, with the Grade II Listed Red Lion within close proximity, to the southeast. Locally listed buildings Stratton House and Stratton Audley Manor are also in close proximity to the site. Bats and swifts, legally protected species, have been recorded in the vicinity of the site.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Permission was granted on 3rd April 2017 for the erection of a 1 ½ storey semi-detached dwelling on the site incorporating the existing stone wall, under the reference 16/02631/F. This application was submitted and approved in conjunction with a separate application for the adjoining semi-detached property, reference 16/02630/F. The current application seeks permission for the variation of condition 7 of 16/02631/F, which reads as follows:

*Prior to any works commencing above slab level, a plan showing the extent of the existing wall to be retained within the development, along with details of the method of joining the new stonework to the existing, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.*

*Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 and C33 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.*

- 2.2. There have been no amendments to the previously approved scheme by way of submitted drawings; however, the applicant has presented evidence to suggest that the requirements of condition 7 cannot be met, in particular that the existing stone wall is not structurally sound and capable of retention. An identical condition was also attached to application 16/02630/F, and an application to vary this is also being considered (ref 17/01709/F).

### **3. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
16/01716/F	Single Dwelling, including Taking Down of Redundant Garage/Carport and Sheds	Application Withdrawn
16/02631/F	Erection of 1 new dwelling (revised scheme of 16/01716/F)	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, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 14.09.2017, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. The comments raised by third parties are summarised as follows:

- Demolition and rebuilding of the wall will be harmful to the aesthetics/appearance of a rural historic village, a designated Conservation Area. Would cause detriment to cohesive street view and would not enhance adjoining walls.
- Concern that if there is not sufficient stone that is reclaimable, an exact match must be found. If there is insufficient matching stone found then an

alternative material would have a significant negative impact on visual amenity.

- Other comments made relating to principle of development, and suggested alterations to approved parking/access and visual details.

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.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. STRATTON AUDLEY PARISH COUNCIL: **Objects** – as submitted evidence is insufficient to suggest that demolition and rebuilding of wall is required in order to carry out development

### NON-STATUTORY CONSULTEES

6.3. CDC CONSERVATION: **No objections** – accepts the taking down of the wall and rebuilding with lime mortar, only to the extent that is absolutely necessary. The Conservation Officer has requested that during the demolition works, the wall is recorded to Level 3 standard (as shown in Historic England's – Understanding Historic Buildings: A Guide to Good Recording Practice) and stones marked in courses ready for rebuilding

6.4. CDC BUILDING CONTROL: **Neither supports nor objects** – *building control naturally support the view contained within the structural engineer's report. However building control have no powers to request demolition or making safe.*

## 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:

### The Cherwell Local Plan 2011-2031 Part 1

- PSD1 (Presumption in Favour of Sustainable Development)
- BSC2 (Effective use of land and housing density)
- ESD1 (Mitigating and Adapting to Climate Change)
- ESD3 (Sustainable Construction)
- ESD10 (Protection and Enhancement of Biodiversity and the Natural Environment)
- ESD15 (The Character of the Built and Historic Environment)
- Villages 1 (Village Categorisation)

#### Saved Policies of the Cherwell Local Plan (November 1996)

- C23 (Retention of features in Conservation Areas)
- C28(Layout and design of new development)
- C30 (Design control)
- C33 (Protection of important gaps in undeveloped land)

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Stratton Audley Conservation Area Appraisal (1996)

### **8. APPRAISAL**

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

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

#### Principle of development

#### 8.2. The current application is a variation of condition application made under section 73 of The Town and Country Planning Act 1990 (as amended). The National Planning Practice Guidance (PPG) advises:

*In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20140306).*

#### 8.3. The principle of development has been established through the granting of permission 16/02631/F; this current application seeks to vary condition 7 of this permission to allow for the stone wall to be rebuilt rather than retained in situ. No changes are proposed to the design of the previously approved dwelling, and no other conditions are proposed to be amended or removed. Therefore, in accordance with the Government guidance referred to above, the proposed development remains acceptable in principle and it is only the matter in dispute (i.e. the requirements of condition 7) that are for detailed consideration, as discussed below.

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

#### 8.4. The application site is located within the Stratton Audley Conservation Area and the site is also within the setting of a number of Grade II listed buildings (designated heritage assets) including The Red Lion public house to the southeast.

#### 8.5. The NPPF requires Local Planning Authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. It goes on to state when considering the impact of proposed development on the significance of a designated heritage asset, great weight should

be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset and any harm or loss should require clear and convincing justification. It goes onto state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Policy ESD 15 of the Cherwell Local Plan echoes this advice.

- 8.6. Furthermore Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving a listed building or its setting and Section 72 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.7. Saved Policy C23 of the 1996 Local Plan states that there will be a presumption in favour of retaining walls and other features which make a positive contribution to the character and appearance of a conservation area and Policies C28 and C30 seek to ensure the layout, scale and design of development is of a high standard.
- 8.8. The NPPF states that the Government attaches great importance to the design of the built environment and good design is a key aspect of sustainable development. Paragraph 56 states that planning decisions should not attempt to impose architectural styles or particular tastes; however it is proper to seek to promote or reinforce local distinctiveness. Policy ESD15 requires new development to complement and enhance the character of its context and respect the traditional form, scale and massing of buildings.
- 8.9. The previous scheme (16/02631/F) was considered acceptable in terms of visual impact in the context of the designated Conservation Area, with the officers commenting:

*“The existing buildings on the site which sit on the edge of the highway – although not in their original form – provide a strong sense of enclosure and contribute positively to the character and appearance of the streetscene and therefore the character of the Conservation Area. They also enhance the setting of the Red Lion public house by reinforcing the strong building line...”*

*“Whilst it is noted that the creation of openings into the wall would lead to some loss of historic fabric, the wall is put into a viable use consistent with its former historic use and the most significant feature of the wall, the sense of enclosure, would be preserved.”*

- 8.10. The application does not propose a change to the general principle of development or design approach to what was previously assessed and considered acceptable; rather the applicant seeks to remove a condition relating to the construction method of the dwelling and specifically the retention of the existing wall. The applicant has submitted a structural engineers report, produced by 'Forward Structural Consultants'. The report concludes that it is not feasible to create the required (approved) openings, and that the wall is in too poor a condition to safely underpin, and therefore should be carefully demolished and the original stone cleaned and set aside for re-use.
- 8.11. As noted above, officers had previously considered that the key significance of the wall in the context of the area is the sense of enclosure it provides, together with reinforcing the strong building line. Historic photographs and records clearly show that the wall originally formed part of a building, and it was on the basis that the proposal would reinstate this form that it was previously considered acceptable.

- 8.12. The existing historic fabric is clearly also a significant element, and the preference would have been to retain the wall and incorporate it into the new development. However, on the basis of the structural engineer's conclusions, officers are persuaded that regrettably this is not feasible. In order to ensure that as much of the existing historic fabric is re-used and incorporated into the development as possible, officers consider that a new condition is required to ensure the existing wall is demolished by hand, that historic stone is retained for re-use in the development, and the wall is rebuilt strictly in accordance with the approved drawings. Subject to such a condition, officers are satisfied that the key significance of the existing wall, namely the traditional sense of enclosure it affords, would be retained.
- 8.13. The Conservation Officer has been consulted on the application and offered no objections, subject to conditions. It is however not considered reasonable that the Local Planning Authority require a recording of the wall before or during demolition. As noted above, it is considered that the key significance of the wall is the sense of enclosure it gives in this context. Further, the Local Planning Authority has already given consent which would alter the wall through the introduction of openings and supporting structures, where this requirement was not given.

#### Residential amenity

- 8.14. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 8.15. The removal of condition 7 would not affect the amenities of future occupiers of the building or existing occupiers of neighbouring buildings and it is therefore considered it would not have an impact in this regard.

#### Highway safety

- 8.16. It is not considered that the removal or amendment of the requirements of condition 7 would in any way affect the safety of the local highway network.

#### Other matters

- 8.17. As this application is a S73 application, it is necessary to repeat all conditions attached to the original permission, as amended, as the result of the approval of this application would be a new planning permission. The PPG makes it clear that: *"where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended"*.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. It is considered that the proposed removal of condition 7 of 16/02631/F, whilst regrettable, is justified as the submitted evidence demonstrates that it is not feasible to retain and incorporate the existing wall into the development. A condition can be attached to ensure as much of the existing stonework is retained and reused in the development, to minimise the loss of historic fabric and ensure the traditional sense of enclosure is retained. Therefore the proposals assessed within this application are considered acceptable and to comply with the above mentioned policies and the application is recommended for approval as set out below.

## **10. RECOMMENDATION**

That permission is granted, subject to the following conditions:

- 1 The development to which this permission relates shall be begun not later than the 3<sup>rd</sup> April 2020.

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 submitted with the original application 16/02631/F: Application forms, P/16/124/010 Rev. G, P/16/124/012 Rev. H, P/16/124/031, P/16/124/032, P/16/124/030 Rev. A, P/16/124/040, P/16/124/034 and P/16/124/033.

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, a Programme of Works for carrying out the development in conjunction with that approved under 17/01709/F shall be submitted to and approved in writing by the Local Planning Authority. The Programme of Works shall include a timetable for each phase of development, and shall demonstrate how the two dwellings will be developed as a single building. Thereafter, the development shall be carried out in strict accordance with the approved Programme of Works.

Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 and C33 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 4 Prior to the commencement of the development hereby approved, 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 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,
- (d) details of the boundary treatments including fencing and gates, both pedestrian and vehicular, and the materials used.

Thereafter, the development shall be carried out in accordance with the approved landscaping scheme.

Reason - In the interests of the visual amenities of the area, to ensure the creation

of a pleasant environment for the development and to comply with Policy ESD10 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD10 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 6 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD10 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 7 Prior to the commencement of the development hereby approved, a Method Statement detailing how the stonework of the existing wall adjacent to Church Street shall be retained and incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall detail, as a minimum:

- a) Method of demolition of the existing wall
- b) Identification of stone to be re-used and stone to be discarded
- c) Arrangements for the storage and labelling of stone to be re-used
- d) Method of re-using the existing stone in the development

Thereafter, the works shall be carried out in accordance with the approved Method Statement.

Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 and C33 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 8 Prior to any works commencing above slab level, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural limestone to match the



stonework of the existing wall adjacent to Church Street, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the new stonework to be used in the construction of the external walls of the dwelling hereby approved shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 9 Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the external roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 10 The rooflights hereby approved shall be Conservation Grade and of a design which, when installed, does project forwards of the general roof surface.

Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 11 The rainwater goods to be installed in the development shall be cast iron or metal finished black, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the Conservation Area, to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C28 of the Cherwell Local Plan (1996) and Government guidance contained within the National Planning Policy Framework.

- 12 Prior to the first occupation of the dwelling hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and two parking spaces to be provided within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance contained within the National Planning Policy Framework.

- 13 Prior to the first occupation of the dwelling hereby approved, a plan showing the means of pedestrian access between the dwelling and the shared parking area, including where necessary details of gates, means of enclosure and hardstanding, shall be submitted to and approved in writing by the Local Planning Authority. The approved means of access shall be provided prior to the first occupation of the dwelling and shall be retained as such thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to provide a satisfactory standard of amenity to comply with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance contained within the National Planning Policy Framework.

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